

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND SPECIAL EXCEPTION - NW/S
Country Ridge Lane, 817' S of * DEPUTY ZONING COMMISSIONER
Back River Neck Road
(1502-1504 Back River Neck Road) * OF BALTIMORE COUNTY
15th Election District
7th Councilmanic District * Case No. 99-48-SPHX

Country Ridge Shopping Ctr., Inc., Owners;
Southside Brokers, Inc., Contract Lessee

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner for consideration of Petitions for Special Hearing and Special Exception filed by the owners of the subject property, Country Ridge Shopping Center, Inc., by Gary S. Salvo, President, and the Contract Lessee, Southside Brokers, Inc., by Meyer Scherr, through their attorney, David K. Gildea, Esquire. The Petitioners request a special exception for a pawn shop on the subject property, and a finding that existing pawn brokers are exempt from the restrictions of Section 436.4(A) of the Baltimore County Zoning Regulations (B.C.Z.R.), but not exempt from the special exception requirements set forth in Section 502.1 of the regulations, pursuant to Bill No. 112-95. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petitions were Meyer Scherr, Contract Lessee, Edward J. and David K. Gildea, Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is the site of the Country Ridge Shopping Center, which contains a mix of retail and commercial businesses along Country Ridge Lane, located on the

ORDER RECEIVED FOR FILING

Date

By

south side of Back River Neck Road in Essex. At issue in this case is one of the businesses located within this shopping center. Specifically, a pawn shop, owned and operated by Southside Brokers, Inc., which currently occupies an area of approximately 13,780 sq.ft. within the Country Ridge Shopping Center. Mr. Scherr testified that he has owned and operated this pawn shop from the subject location since January 1996 and is in need of more storage space. Testimony indicated that the Petitioner wishes to relocate his business to a larger space within the subject shopping center. A review of the site plan indicates that the proposed new location will allow the Petitioner to essentially double the size of his current operation. Due to the nature of the business, and legislation that was recently passed to protect surrounding residential communities, the requested special hearing and special exception relief are necessary in order to proceed as proposed.

During the course of the hearing in this matter, it was brought to my attention that Mr. Scherr and Southside Brokers, Inc. were parties to a prior zoning case, specifically Case No. 96-226-X, which was heard by my colleague, Zoning Commissioner Lawrence E. Schmidt. In that case, the Petitioners sought approval to allow the relocation of this pawn shop from 8110 Pulaski Highway to 1508 Country Ridge Lane. By his Order dated January 22, 1996, Commissioner Schmidt denied the Petitioner's request, due to the fact that another pawn shop existed within one mile of the proposed relocation site. Notwithstanding this denial, the Petitioner proceeded to relocate his business to the subject site and subsequently appealed Commissioner Schmidt's decision to the County Board of Appeals, and thereafter, to the Circuit Court for Baltimore County. A further appeal to the Court of Special Appeals is now pending. The Petitioner now comes before me

OFFICE RECEIVED FOR FILING
10/29/98
Bry

seeking approval to relocate his business, notwithstanding that the legality of the very existence of his business at this location is pending before the Court of Special Appeals.

I have reviewed the opinions issued by Commissioner Schmidt, the majority and dissenting opinions issued by the County Board of Appeals in Case No. 96-226-X, and the decision by the Circuit Court for Baltimore County in their Case No. 3-C-97-5479. After reviewing these opinions, I am persuaded to dismiss the Petitions filed. I find that the issue presented in the instant case is the same as that which has yet to be resolved by the Court of Special Appeals where the Petitioner's prior case is still pending. Thus, I do not believe it is appropriate for me to render an opinion on this case until such time as the prior case has been fully litigated and concluded. Therefore, in consideration of the prior decisions made on this matter and in view of the pending case before the Court of Special Appeals, I am inclined to dismiss without prejudice the special hearing and special exception requests before me.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the special hearing and special exception relief requested shall be dismissed without prejudice.

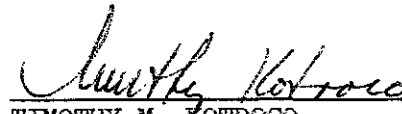
THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 20th day of October, 1998 that the Petition for Special Exception to permit a pawn shop on the subject property, and the Petition for Special Hearing to approve a finding that existing pawn brokers are exempt from the restrictions of Section 436.4(A) of the Baltimore County Zoning Regulations (B.C.Z.R.), but not exempt from the special

ORDER RECEIVED FOR FILING

Date

By

exception requirements set forth in Section 502.1 of the regulations,
pursuant to Bill No. 112-95, be and are hereby DISMISSED WITHOUT PREJUDICE.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
8/10/07
[Signature]



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

October 20, 1998

David K. Gildea, Esquire
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING & SPECIAL EXCEPTION
NW/S Country Ridge Lane, 817' S of Back River Neck Road
(1502-1504 Back River Neck Road)
15th Election District - 7th Councilmanic District
Country Ridge Shopping Ctr., Inc., Owners; Southside Brokers, Inc.,
Contract Lessee
Case No. 99-48-SPHX

Dear Mr. Gildea:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Special Exception have been dismissed without prejudice, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Gary S. Salvo, President, Country Ridge Shopping Center, Inc.
11509 Pulaski Highway, White Marsh, Md. 21162

Mr. Meyer Scherr, Southside Brokers, Inc.
1101 Light Street, Baltimore, Md. 21230

J. Carroll Holzer, Esquire
508 Fairmount Avenue, Towson, Md. 21286

People's Counsel; Case Files

IN THE MATTER OF:

COUNTRY RIDGE

SHOPPING CENTER, INC.

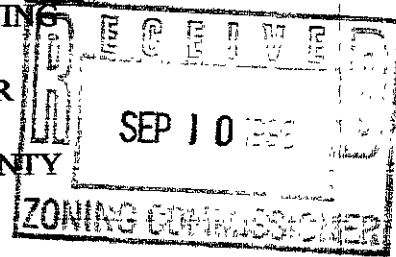
1508 BACK RIVER NECK RD

* BEFORE THE ZONING

COMMISSION FOR

* BALTIMORE COUNTY

* Case No. 99-48-SPHX



* * * * *

Motion to Dismiss

Back River Neck Community Association and Carl Maynard, individually, by J. Carroll Holzer and Holzer and Lee, Protestants, Move to Dismiss the Petition, on the following grounds:

1. The petition is barred by the judgement in the earlier case of Petition of Country Ridge Shopping Center, CBA 96-226-X, April 30, 1997, affirmed vel nom. Petition for Judicial Review of Southside Brokers, C-97-5479, Circuit Court February 9, 1998, attached, (Motion to Amend Judgement Denied, Appeal Pending), hereinafter "Country Ridge I."

2. Country Ridge I involved the same parties, the same shopping center property, and the same legal issues. Any proposed relocation of storefronts within the shopping center is immaterial to the issues presented.

3. The County Board of Appeals ("CBA") has held that a special exception for a pawnshop at the Country Ridge Shopping Center is inappropriate, and the Circuit Court has affirmed.

4. The CBA has separately held that the locational requirements of BCZR, Sec. 436.4, including the minimum one mile distance from existing pawnshops, apply to new locations opened after the effective date of Bill 112-95, whether or not the same owner had another location in operation when the law was enacted, and the Circuit Court has, again, affirmed.

LAW OFFICE

HOLZER AND LEE

305 WASHINGTON AVENUE

SUITE 502

TOWSON, MARYLAND

21204

(410) 825-6961

FAX (410) 825-4923

5. It would be arbitrary and capricious for the Zoning Commissioner to reverse the recent decisions of the CBA and Circuit Court. Whittle v. Board of Zoning Appeals, 211 Md. 36 (1956).

6. Moreover, it is clearly inappropriate, on grounds of jurisdiction, or administration of justice for Petitioner to file a second petition on the same subject matter during the pendency of the first case. See Brohawn v. Transamerica, 276 Md. 396 at 405-407 (1975); State v. 91st Street Joint Venture, 330 Md. 620 (1993).

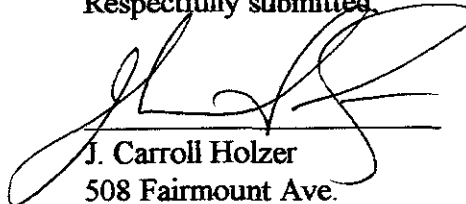
7. It is particularly oppressive and vexatious for this Petitioner to take the proverbial "second bite at the same apple" while its unsuccessful initial litigation of the same claim, its "first bite", has so far been unsuccessful and is still pending appeal at the Court of Special Appeals.

8. In sum, the relevant issues relating to this property will be resolved in the pending action. The present request is inappropriate and should be dismissed for lack of jurisdiction and/or in furtherance of the administration of justice.

9. Upon affirmance, Country Ridge I will further bar the present petition based on res judicata and/or collateral estoppel. See Batson v. Shiflett 325 Md. 684 (1992); Esslinger v. Baltimore City, 95 Md. App. 607 (1993).

WHEREFOR, Protestants request that the petition be dismissed.

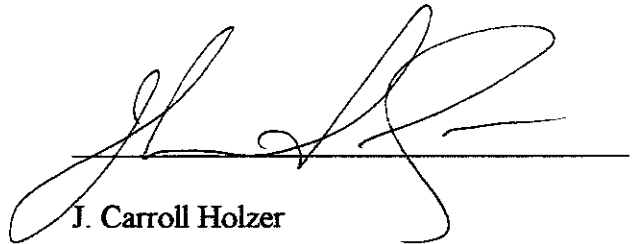
Respectfully submitted,



J. Carroll Holzer
508 Fairmount Ave.
Towson, Maryland 21286
410-825-6961

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 10th day of September, 1998, a copy of the foregoing Motion to Dismiss was mailed first class, postage pre-paid to David Gildea, Esquire, Whiteford, Taylor and Preston, 210 West Pennsylvania Ave., Towson, Maryland 21204.



J. Carroll Holzer

JCH: rls

a:\countrig



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 1502-1504 Country Ridge Lane

which is presently zoned BM

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

Pursuant to Bill 112-95, that then existing pawn brokers are exempt from the restrictions in BCZR Section 436.4(A), but not exempt from the special exception requirements found in BCZR Section 502.1.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

By: Southside Brokers, Inc.
(Type or Print Name) Meyer Scherr
Signature [Signature]
1101 Light Street
Address
Baltimore MD 21230
City State Zipcode

Attorney for Petitioner:

Whiteford, Taylor & Preston
(Type or Print Name) David K. Gildea, Esquire

David K. Gildea
Signature
210 W. Penn. Ave. 410-832-2066
Address Phone No.
Towson MD 21204
City State Zipcode

Legal Owner(s):

By: Country Ridge Shopping Center, Inc.
(Type or Print Name) [Signature]
Signature GARY S. SALVO
(Type or Print Name)
Signature

11509 PULASKI HWY. 410-335-3570
Address Phone No. wk.

WHITE MARSH MD. 21162
City State Zipcode
Name, Address and phone number of representative to be contacted.

David K. Gildea

210 W. Pennsylvania Ave., 4th Floor
Address
Towson, MD 21204 (410)832-2000
Phone No.

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: MK DATE 7/28/92

ORDER RECEIVED FOR FILING

Date

By

Zoning Administration

99-48-SPHX #48



Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 1502-1504 Country Ridge Lane

which is presently zoned BM

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

A pawn shop

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

Southside Brokers, Inc.

(Type or Print Name) Meyer Scherr

Signature

1101 Light Street

Address

Baltimore

City

MD

State

21230

Zipcode

Attorney for Petitioner:

Whiteford, Taylor & Preston

(Type or Print Name) David K. Gildea, Esquire

Signature

210 W. Penn. Ave.

Address

410-832-2066

Phone No.

Towson

City

MD

State

21204

Zipcode

Legal Owner(s)

Country Ridge Shopping Center, Inc.

(Type or Print Name)

By: GARY S. SALVO

Signature

GARY S. SALVO

(Type or Print Name)

Signature

11509 PULASKI Hwy 410-335-3570

Address

Phone No.

WHITE MARSH MD. 21162

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

David K. Gildea

Name

210 W. Pennsylvania Ave., 4th Floor

Address

Towson, MD 21204

(410)832-2900

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: BK

DATE 7/28/98

99-48-SPHX #48

PROPERTY DESCRIPTION

Beginning at a point 817 ft. $35^{\circ} 43' 33''$ E of a point on Back River Neck Road which is 60 feet of right of way wide, said point on Back River Neck Road being 200 feet S $35^{\circ} 41' 17''$ E of Hopewell Street which is 30 feet wide. Thence from aforesaid point of beginning the following courses and distances:

S. $35^{\circ} 43' 33''$ E. 215.0 ft., N. $35^{\circ} 43' 33''$ E. 50.0 ft.,

S. $35^{\circ} 43' 33''$ E. 74.0 ft., S $35^{\circ} 43' 33''$ W. 500 ft.,

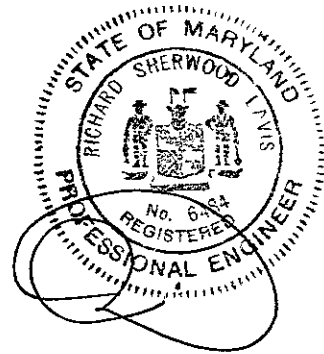
N. $54^{\circ} 16' 27''$ W., 650 ft., S. $35^{\circ} 43' 33''$ W. 45.0 ft.,

N. $54^{\circ} 16' 27''$ W., 224.0 ft., N. $35^{\circ} 43' 33''$ E. 45.0 ft.

to the point of beginning.

Being the demised premises in a lease between Southside Brokers, Inc., and Country Ridge Shopping Center, Inc., containing 13,780 square feet in Country Ridge Shopping Center which is recorded in Baltimore County Plat Liber 4088, Folio 210 containing 521,090 square feet.

Also known as 1502 & 1504 Back River Neck Road located in the 11th Election District, 7th Councilmanic District.



99-48-SPHX
#48

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 056553

DATE 7/28/98 ACCOUNT Root 653

AMOUNT \$ 550.00

RECEIVED FROM: Whitehead Taylor & Preston

FOR: 050 Special Exception
040 Special clearing

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

Item # 48

PAID RECEIPT

PROCESS ACTUAL TIME
7/29/1998 7/29/1998 15:12:49
REF 0605 - CASHIER LSMT LVS - PAID
5 MISCELLANEOUS CASH RECEIPT
Receipt # 066898
CR NO. 056553

550.00 CHECK
Baltimore County, Maryland

99.48-SPHX

CASHIER'S VALIDATION

**NOTICE OF ZONING
HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #99-48-SPHX
1502-1504 Country Ridge
Lane W/S Back River Neck
Road, 200' E of Hopewell
Street
11th Election District
7th Councilmanic District
Legal Owner(s):
Country Ridge Shopping
Center, Inc.
Contract Purchaser:
Southside Brokers, Inc.

Special Hearing: to approve
the existing pawn brokers are
exempt from Section 436.4(A)
but not exempt from the spe-
cial exception requirements
found in BCZR Section 502.1.
Special Exception: for a pawn
shop.

Hearing: Friday, September
11, 1998 at 2:00 p.m., in
Room 106, County Office
Building, 111 West Ches-
apeake Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible; for
special accommodations
Please Call (410) 887-3353

(2) For information concern-
ing the File and/or Hearing,
Please Call (410) 887-3391.

8/392 Aug. 27. c253930

CERTIFICATE OF PUBLICATION

TOWSON, MD., 8/27/, 1998

THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper published
in Towson, Baltimore County, Md., once in each of 1 successive
weeks, the first publication appearing on 8/27/, 1998.

THE JEFFERSONIAN,

A. Henickson

LEGAL AD. - TOWSON

CERTIFICATE OF POSTING

**RE: Case # 99-48-SPHX
Petitioner/Developer:
(Country Ridge S. C.)
Date of Hearing/Closing:
(Sept. 25, 1998)**

**Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204**

Attention : Ms. Gwendolyn Stephens

Ladies and Gentleman:

**This letter is to certify under the penalties of perjury that the necessary sign(s) required by
law were posted conspicuously on the property located at _____
1502-1504 Country Ridge Lane Baltimore, Maryland 21221 _____**

**The sign(s) were posted on _____ Sept. 8, 1998 _____
(Month, Day, Year)**

Sincerely,

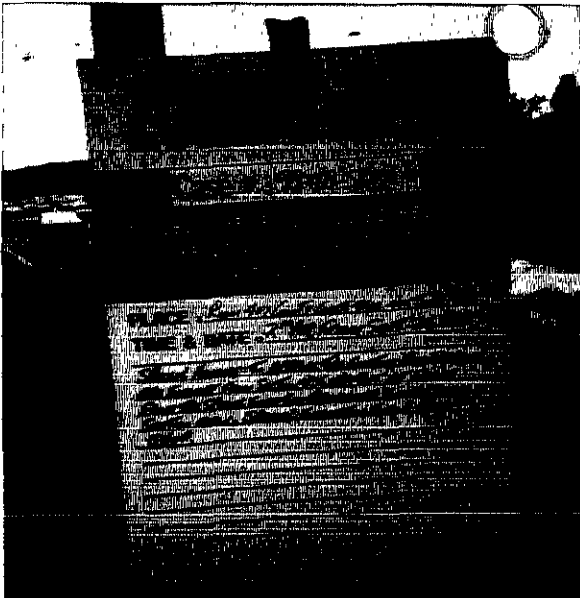

(Signature of Sign Poster & Date)

_____ Thomas P. Ogle, Sr. _____

_____ 325 Nicholson Road _____

_____ Baltimore, Maryland 21221 _____

**_____ (410)-687-8405 _____
(Telephone Number)**



Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: 99-48-SPHX

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: _____

DATE AND TIME: _____

REQUEST: Special Exception to use the property for a pawn
shop, and a Special Hearing to establish that existing pawn
brokers are exempt from the restrictions in BCZR Section
436.4(A), but not exempt from the Special Exception
requirements found in BCZR Section 502.1.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 48
Petitioner: Southside Brokers, Inc
Address or Location: 1101 Light Street Baltimore, MD. 21230

PLEASE FORWARD ADVERTISING BILL TO:

Name: David K. Golden Whiteford, Taylor & Preston
Address: 210 W. Penn. Ave.
Towson, Md. 21204
Telephone Number: (410) 832-2066

Revised 2/20/98 - SCJ

99-48-SPHX #48

TO: PATUXENT PUBLISHING COMPANY
August 27, 1998 Issue - Jeffersonian

Please forward billing to:

David K. Gildea, Esquire
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, MD 21204

410-832-2066

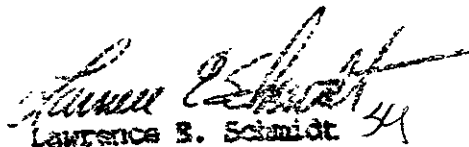
NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 99-48-SPHX
1502-1504 Country Ridge Lane
W/S Back River Neck Road, 200' E of Hopewell Street
11th Election District - 7th Councilmanic District
Legal Owner: Country Ridge Shopping Center, Inc.
Contract Purchaser: Southside Brokers, Inc.

Special Hearing to approve the existing pawn brokers are exempt from Section 436.4(A) but not exempt from the special exception requirements found in BCZR Section 502.1. Special Exception for a pawn shop.

HEARING: Friday, September 11, 1998 at 2:00 p.m. in Room 106, County Office Building,
111 West Chesapeake Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS
PLEASE CALL 410-887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 410-
887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 10, 1998

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 99-48-SPHX
1502-1504 Country Ridge Lane
W/S Back River Neck Road, 200' E of Hopewell Street
11th Election District - 7th Councilmanic District
Legal Owner: Country Ridge Shopping Center, Inc.
Contract Purchaser: Southside Brokers, Inc.

Special Hearing to approve the existing pawn brokers are exempt from Section 436.4(A) but not exempt from the special exception requirements found in BCZR Section 502.1. Special Exception for a pawn shop.

HEARING: Friday, September 11, 1998 at 2:00 p.m. in Room 106, County Office Building,
111 West Chesapeake Avenue

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

c: David K. Gildea, Esquire
Country Ridge Shopping Center, Inc.
Southside Brokers, Inc.

- NOTES: (1) **YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY AUGUST 27, 1998.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3391.





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

September 10, 1998

David K. Gildea, Esq.
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, MD 21204

RE: Item No.: 48
Case No.: 99-48-SPHX
Location: 1502-04 Country
Ridge Lane/Country Ridge
Shopping Center

Dear Mr. Gildea:

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on July 28, 1998.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr." with a stylized flourish at the end.

W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

WCR:ggs

Enclosures



Jes
9/25

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
and Development Management

DATE: August 21, 1998

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: 1502-1504 Country Ridge Lane

INFORMATION

Item Number: 48

Petitioner: Southside Brokers, Inc.

Zoning: BM

Requested Action: Special Exception and Special Hearing

Summary of Recommendations:

While existing pawn shops were grandfathered into the legislation by enactment of Bill 112-95, the Circuit Court has ruled that the site is grandfathered in, and not the business itself. The court has also interpreted the law to say that Southside Brokers could not move within a mile of another existing pawnshop.

From a planning point of view, we view this action as similar to a non-conforming use, which is limited in its ability to expand. Southside plans to move two doors down and double its size. Even if the law would allow Southside to move, the intent was never to expand the size of the existing facility.

Based upon a review of the information provided and analysis conducted, this office recommends that the applicant's request be denied.

Section Chief:



AFK/JL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: August 18, 1998

FROM: *fw* Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for August 17, 1998
Item Nos. 044, 045, 046, 047, 048,
049, 050, 051, 052, 053, 054

Revised Plats for Reclassification
Case #CR-98-367-A
(7218 Windsor Mill Road)

Revised Petition; Environmental
Impact Statement, Description, and
Plats for Reclassification
Case #R-97-465
(1856 Reisterstown Road)

The Development Plans Review Division has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
(410)887-4880

AUG. 12, 1998

Arnold Jablon, Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF AUG. 10, 1998.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

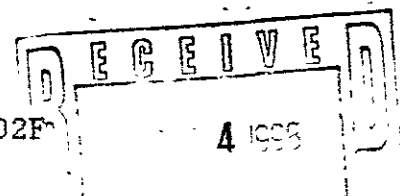
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 044, 045, 046,
047, 048, 049, 050, 051 AND 053.

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: PDM

FROM: R. Bruce Seeley *ANS/98*
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: 8/10/98

DATE: 8/13/98

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s:

~~44~~
44
47
48
50
51
52
54

RBS:sp

BRUCEZ/DEPRM/TXTSBP



**Maryland Department of Transportation
State Highway Administration**

Parris N. Glendening
Governor

David L. Winstead
Secretary

Parker F. Williams
Administrator

Ms. Gwen Stephens
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County 8.11.5V
Item No. 048 BR

Dear Ms. Stephens:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Thank you for the opportunity to review this item.

Very truly yours,

R. J. Burns
for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

RE: PETITION FOR SPECIAL HEARING
PETITION FOR SPECIAL EXCEPTION
1502-1504 Country Ridge Lane, W/S Back River
Neck Rd, 200' E of Hopewell St, 11th Election
District, 7th Councilmanic

Legal Owners: Country Ridge Shopping Ctr., Inc.
Contract Purchaser: Southside Brokers, Inc.
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case Number: 99-48-SPHX


* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates of other proceedings in this matter and of the passage of any preliminary or final Order.



PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of August, 1998, a copy of the foregoing Entry of Appearance was mailed to David K. Gildea, Esq., Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Suite 400, Towson, MD 21204, attorney for Petitioner(s).



PETER MAX ZIMMERMAN



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

August 18, 1998

David K. Gildea, Esquire
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, MD 21204

RE: Case Number 99-48-SPHX
Petitioner: Country Ridge S.C.
1502-1504 Country Ridge Lane

Dear Mr. Gildea:

The above matter, previously assigned to be heard on Friday, September 11, 1998 has been **rescheduled for Friday, September 25, 1998 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue.**

The new hearing date and time should be affixed to the hearing notice sign posted on the property as soon as possible.

If you need further information or have any questions, please do not hesitate to contact Sophia Jennings at 410-887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:scj

c: Country Ridge Shopping Center, Inc.
Southside Brokers, Inc.

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

August 17, 1998

David K. Gildea, Esquire
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, MD 21204

RE: Case Number 99-48-SPHX
Petitioner: Country Ridge S.C.
1502-1504 County Ridge Lane

Dear Mr. Gildea:

The above matter, previously assigned to be heard on Friday, September 11, 1998 has been postponed at your request.

Please be advised that, as the individual requesting and receiving the postponement, the responsibility and costs associated with the appropriate posting of the property now lies with you. The petitioner or his/her agent may not personally post or change a zoning sign. One of the currently approved vendors/posters must be contacted to do so.

If the property has been posted with notice of the hearing date, as quickly as possible a notice of postponement should be affixed to the sign(s). Then, upon notification of the new hearing date, such sign(s) must be changed to give notice of the new hearing date.

Very truly yours,

A handwritten signature in black ink, appearing to read "Arnold Jablon", with a stylized flourish at the end.

Arnold Jablon
Director

AJ:scj

c: Country Ridge Shopping Center, Inc.
Southside Brokers, Inc.



SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

30 COLUMBIA CORPORATE CENTER
10440 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044
TELEPHONE 410 884-0700
FAX 410 884-0719

DAVID K. GILDEA
DIRECT NUMBER
410 852-2066
dgildea@wtplaw.com

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515

410 832-2000
FAX 410 832-2015
www.wtplaw.com

8/18/98
TO SJ - if any business parties have Gildea contact for new date

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

August 13, 1998

Via Hand Delivery

Mr. Arnold Jablon
Director
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: 1502-1504 Country Ridge Lane
Case No.: 99-48-SPHX
Our File No.: 06510/00001

Dear Mr. Jablon:

Southside Brokers, Inc., by and through its attorneys, David K. Gildea and Whiteford, Taylor & Preston L.L.P., hereby respectfully requests a postponement of the above referenced matter currently scheduled for Friday, September 11, 1998, at 2:00 p.m. Mr. Meyer Scherr of Southside Brokers, a material witness in this matter, will be unavailable to testify at the currently scheduled time. Southside Brokers would suffer undue prejudice should the matter not be rescheduled and Mr. Scherr is unable to testify in this matter. Any opposition, if any, would not suffer any undue prejudice from the postponement.

I look forward to hearing from you. Should you have any questions or comments, please contact me.

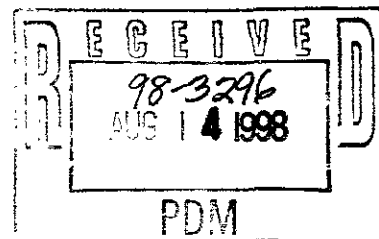
Respectfully submitted,

David K. Gildea
David K. Gildea

DKG:bhb

CC: Mr. Lawrence E. Schmidt, Zoning Commissioner for Baltimore County
Mr. Meyer Scherr, Southside Brokers, Inc.

144590



PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Weyer Scherer
Daniel K. Gilman

1508 Country Ridge Ln. 21221
Whiteford Taylor Preston
210 W. Penn. Ave Suite 400
Towson, Md. 21204

Edward J. Sedlak Jr

1508 Country Ridge Ln 21221



IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF		
COUNTRY RIDGE SHOPPING CENTER,	*	COUNTY BOARD OF APPEALS
INC.; SOUTHSIDE BROKERS, INC.		
FOR A SPECIAL EXCEPTION ON	*	OF
PROPERTY LOCATED 767' SE OF		
BACK RIVER NECK ROAD	*	BALTIMORE COUNTY
(1508 Back River Neck Road)		
11TH ELECTION DISTRICT	*	CASE NO. 96-226-X
7TH COUNCILMANIC DISTRICT		
* * * *	*	* * * *

MAJORITY OPINION

This matter comes before the Board as a Petition for Special Exception for a pawnshop in the Country Ridge Shopping Center, located in a B.M. zone at 1508 Back River Neck Road in the Seventh Councilmanic District of Baltimore County. Special Exception relief is requested to approve the relocation of an existing pawnshop from 8110 Pulaski Highway, as required under the 1995 pawnshop law, Council Bill No. 112-95, which created new Section 436 of the Baltimore County Zoning Regulations (BCZR).

This case comes on an appeal from a ruling of the Zoning Commissioner on a Motion for Reconsideration (April 19, 1996) in which Petition for Special Exception was granted, after having been initially denied (January 22, 1996) by the Zoning Commissioner.

The Petitioner in this case, which was heard de novo, was Meyer Scherr, President of Southside Brokers, Inc., Lessee, represented by Roger N. Powell, Esquire.

The Appellants were residents of the Back River Neck Road area, and included John Hessian, President of the Rockway Beach Association, and Alfred Clasing, President of the Back River Neck Peninsula Community Association, an umbrella organization for many associations.

The first day of hearing was November 6, 1996, and the final day was March 12, 1997. The public deliberation on the matter by the Board was conducted on April 17, 1997. The time lapse in this case was due to a postponed hearing on January 23, 1997, agreed upon by both parties.

Legislative Background

The County Council used its legislative authority and judgement to determine standards and regulations for pawnshops in Baltimore County, and on July 20, 1995, Bill No. 112-95 was enacted. The Act was declared to be an emergency measure affecting the public health, safety and welfare.

The principle of community conservation is an expressed goal in Baltimore County (Section 436.1, Baltimore County Zoning Regulations). The Master Plan, 1989-2000, proposes that commercial activities incompatible with local neighborhoods should be restricted in such locales. The goal of revitalization of neighborhoods and communities in the Essex area is a high priority of the County, based on findings of crime, economic decline, housing and the general neighborhood image. The Council cited, in Section 436.1(C) that "an undue concentration or the inappropriate siting or design of pawnshop businesses has a reasonable probability of causing adverse effects on nearby residential and commercial areas by creating an impression of community decline and instability." The intent, as stated in 436.1, is to avoid an undue concentration or the inappropriate location of pawnshops so as to avoid deleterious effects on older communities which the County is

trying to conserve and revitalize. Section 436.4(A) also stipulates that a pawnshop may not be located within a one-mile radius of any other pawnshop, and that no more than two pawnshops may be located in a councilmanic district.

Section 6 of Bill No. 112-95 further enacts that pawnshops lawfully in existence and operating on the effective date of the Act are not subject to the requirements of Section 436.4.

The issues raised in this case as considered in this Majority Opinion of the Board are the application of the provisions of Bill No. 112-95, and the addition of Section 436 to the Baltimore County Zoning Regulations (BCZR). The reading and interpretation of Section 436.4 and Section 6, and their application, is the critical consideration to the denial or approval of the relocation of the pawnshop.

Testimony

Meyer Scherr, the President of Southside Brokers, Inc., testified that his pawnshop business at 8110 Pulaski Highway had to be relocated because of the termination of his lease on that property. No evidence to that effect was presented at the hearing, and the relocation was possibly for better business opportunities. In May 1996, Southside Brokers relocated to the Country Ridge Shopping Center which provides numerous business enterprises, adequate parking and proximity to other commercial services situated along Back River Neck Road.

Mr. Scherr testified in detail regarding his management and business procedures, which he described as a retail business,

selling items received from people as collateral for money. He reviewed the reporting of pawn transactions and the special record keeping necessary to avoid acceptance of illegal items, keeping files on every transaction. Forms for each transaction are completed and given to the Baltimore County Police daily. Since opening his shop at Country Ridge in May, Mr. Scherr remarked that he has conducted 2,000 transactions for people living in the postal zone 21221 (Essex).

Southside Brokers at Country Ridge does not deal with weapons, which would require a special license. Mr. Scherr concurred that the State license for the Country Ridge location is for that address and is not a transferred license from Pulaski Highway.

Protestants to the location in the subject shopping center perceive it as a vulnerable section of Essex trying to overcome a long era of decline.

John Dillon, former County Planner, testified that the neighborhoods near the shopping center exemplify high levels of poverty and the lowest levels of income and property values. Dillon, who helped develop the Community Conservation Plan for Essex-Middle River (People's Counsel Exhibit No. 9), found the location inappropriate for a pawnshop for the following reasons: is counterproductive to business revitalization; it undermines efforts to enhance a community known for crime and low income; is detrimental to the public safety, health and welfare; and contradicts legislative findings and provisions of BCZR Section 436 over the undue concentration of pawnshops in a high priority

revitalization area. Mr. Dillon's studies of the area (1995) found a census tract area of 9,000 acres where 63,000 people lived in 4,000 of the acres for an average of 13.7 people /acre. The County averages 4.1 /acre. His study also found that the area around the shopping center was 50 percent poverty level and other adjacent areas were 25 to 50 percent.

Captain James Johnson of the County Police and Precinct Commander in Essex presented statistical evidence showing the neighborhood around the center has the highest magnitude of major crimes. Captain Johnson testified that pawnshops are known as receptors of stolen goods and an additional pawnshop would tend to overburden police regiments to review pawned transactions against items of reported stolen property. He testified that a third pawnshop in the 11th precinct would have a decidedly negative impact on law enforcement and assignment of officers. With the County and community effort to reverse the downward socioeconomic history in parts of Essex, he felt that another pawnshop in this location would discourage the success of more stable businesses necessary for revitalization.

Mary Emerich, Community Conservation Specialist for the area, reviewed conservation efforts and areas targeted for revitalization. She identified specific investments by the County and activities in the subject neighborhood. Feeling that improvements were beginning to have results, Ms. Emerich testified that the area is still the County's highest priority revitalization area. She felt that an additional pawnshop would be counter-

productive to public expenditures expected to reach \$100 Million.

A computer-generated map showing land use and the radii around the shopping center was presented and reviewed by Edward Michel, OIT Specialist. The pawnshop locations in the area were shown as to their proximity to each other. In the prior hearing before the Zoning Commissioner, the proprietors of the two existing pawnshops in this vicinity appeared in protest, along with an attorney representing the trade association of pawnbrokers.

The citizens and community representative gave testimony in strong support of the conservation and revitalization program the County has undertaken in Essex. Their viewpoints supported the County's intention to protect the neighborhoods, and based on their individual experiences and observations, their testimony matched the County Council's profile for neighborhoods under stress.

Orlando Yarborough, a retired Federal accountant, began working at a Body Fitness Center on Back River Neck Road across from the shopping center in 1983, and upon retirement on 1991, became the director of a non-profit organization for at-risk-youth. Serving the youth from low income apartment complexes, their objective is to build character through martial arts, aerobics, weight lifting, field trips, with participation by the health and police departments. His concern was the comments and plans of youth to get merchandise to pawn for ready cash.

Alfred Clasing, a member of the Board of Directors of the Back River Neck Community Association, stated his opposition to the Southside Brokers location from his observation as a 40-year

resident of the Hyde Park neighborhood several miles down the Back River Neck Peninsula, a lower density neighborhood with older single-family homes mixed in with newer development. Country Ridge is the closest neighborhood shopping center, which he feels is in decline. An additional pawnshop is inappropriate in consideration of the difficult process of community revitalization.

John Hessian, president of the Back River Neck Association, served on the advisory committee to the County for the Essex-Middle River Conservation Plan. He opined that pawnshops make neighborhoods look like losers. It gives the connotation of people in dire straits with no credit who have to sell an asset to get along. Such possibilities for residents will not guarantee a better community in his opinion.

Counsel for the Petitioner raised various questions as to the Protestants' opinions about the impact of pawnshops upon a neighborhood. Counsel asserted that the opinions were not factually based, but rather the result of personal prejudices, fears, or hearsay. Petitioner remarked that none of the various witnesses offered any evidence other than unsupported assertions that pawnshops bring crime and undesirable elements, and are therefore inappropriate. Mr. Yarborough's assumption that youth pawn items at the shop is not accurate because they have to be able to prove ownership and be eighteen. John Dillon's opinion was that pawnshops have a negative effect, but he then acknowledged that the County report completed on regulation of pawnshops could not locate documentation that pawnshops caused neighborhood instability or an

increase in crime.

Countering the negative concerns of the Protestants, Mr. Powell observed that there were no witnesses' testimony or evidence that there was a decline in established businesses or to move elsewhere because of the location of Petitioner's shop, or facts that the business would be detrimental to the health, safety, or general welfare of the locality involved.

Opinion

The Petitioner argues that because he was in existence and operating a pawnshop on Pulaski Highway prior to the effective date of Bill No. 112-95, then moved his shop to the subject location, he is not subject to the requirements of Section 436.4. He argues that the clear intent of the statute is to limit the number of pawnshops (12) in the County to those existing. We note that the intent, as stated in Section 436.1, as also to avoid an undue concentration or inappropriate location of pawnshop businesses, and so avoid deleterious effects on older communities which the County is trying to conserve and revitalize.

Section 6 of Bill No. 112-95 does grandfather from the special exception requirements of Section 436.4 pawnshops "in operation" on the effective date of the Act. Southside Brokers, however, was not even in existence at Country Ridge Shopping Center before the Act's effective date of July 3, 1995. Although Petitioner is one of the existing pawn dealers, which are limited to 12 in number, and was exempt at his existing location, we believe the law's exemption does not apply to those existing owners (brokers) for new

locations, or who relocate their existing shop to another site.

We also agree with People's Counsel that the "grandfathering" of an operation goes with the land, not the person, especially in light of the stated intent of this section regarding the inappropriate siting of pawnshops. Therefore, Bill No. 112-95 must be applied to the relocation of Southside Brokers from 8110 Pulaski Highway to 1508 Back River Neck Road.

Majority Opinion

BCZR Section 502.1 sets the standards for the granting of a special exception. In this case, the special considerations are 502.1(a) and (g):

- a. Be detrimental to health, safety, or general welfare of the locality involved; and
- g. Be inconsistent with the purposes of the zoning classification, nor in any way inconsistent with the spirit and intent of the zoning regulations.

Using the standard set forth in Schultz v. Pritts, 291 Md. 1, 1981, "the test for considering a special exception is not whether the use will have an adverse effect, but whether the adverse effect at the particular location is greater than ordinarily associated with the use.... Such uses cannot be developed if at the particular location proposed they have an adverse effect above and beyond that ordinarily associated with such uses. The duties given to the Board are to judge...whether the use in the particular case is in harmony with the general purpose and intent of the plan." (Emphasis added.)

In application of Schultz v. Pritts, the County Council has provided a statement of purpose and a set of performance standards

in regard to the situation of pawnshops, and a more complete and objective structure for evaluation of Petitioner's request for the special exception through the enactment of Bill No. 112-95. Terms and words such as "adverse effect," "particular location," and "disruption of the harmony of the comprehensive plan of zoning" are addressed by Bill No. 112-95. Using the Schultz v. Pritts standard for granting or denying a special exception -- that the proposed use would have an adverse effect above and beyond what it would ordinarily have in any area -- it would appear that a pawnshop would have more than the usual adverse effects in the area of the Country Ridge Shopping Center, because the location is the focus of intense efforts at revitalization.

Contrary to the opinion of the Zoning Commissioner, who granted this Petition, we feel compelled to recognize the qualitative judgements of the County Council and the uncontradicted testimony that this section of Essex is in the highest priority revitalization area, has the highest incident of negative socioeconomic indicators, and has the highest incident of major crime in the County. These adverse effects are greater in the subject neighborhood than they would be elsewhere within the zone, which is a persuasive reason for denial of the special exception for a third pawnshop in the Essex area.

In denying the special exception requested, there are the additional locational standards of BCZR 463.4(A). The County Council decided to act on pawnshops as it is entitled to do. They found undue concentration or inappropriate siting of pawnshops in

described neighborhoods to cause adverse effects. They found that limiting the number of pawnshops to twelve (12) was more than sufficient to meet the needs of the community. The County Council also set regulations that a pawnshop may not be located within a one-mile radius of any other pawnshop, and no more than two may be located in a councilmanic district (436.4(a)).

In this carefully designed regulation, with guidance from the Planning Board, the Council repealed Bill No. 14-95 and enacted Bill No. 112-95, an Act concerning pawnshops written in precise and well-defined language. However, in this case, the meaning set forth by the County Council was seen as not clear. In the Zoning Commissioner's reconsidered ruling, from which the instant appeal was filed, it was determined that existing pawnshop brokers were exempt both at existing locations and in the event they relocated. Additionally, there was testimony that the Bill could be read so as to exempt existing brokers, if not the pawnshop, from the one-mile radius limitation of 436.4(A) but not from the special exception requirement. If a broker chose to relocate, he/she could relocate anywhere in the County without regard to other existing pawnshops.

In this Majority Opinion, we concur that the Council, in Section 6 of Bill No. 112-95, did exempt from the BCZR 436.4 special exception and locational requirements for pawnshops lawfully in existence and operating on the effective date of the Act (July 20, 1995). However, the law in no possible interpretation exempted new locations or relocations by brokers of existing pawnshops. As asserted by People's Counsel, this accords

with the usual idea that zoning addressed property locations rather than ownership and that "grandfathering" goes with the land and not the person. To proceed otherwise would place control in the hands of a few without fear of competition.

The Council has employed the special exception as a means to determine the appropriate and inappropriate locations for pawnshops. The Council has specified minimum site and location standards (BCZR 436.3, 436.4). These include the minimum one-mile distance (radius) from any other pawnshop, and the limit to two in each councilmanic district (BCZR 436.4(A)). The Petition by Southside Brokers has failed to meet any of these standards and therefore the Petition for Special exception is denied.

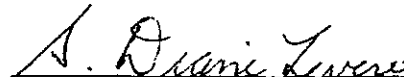
O R D E R

THEREFORE, IT IS THIS 30th day of April, 1997 by the County Board of Appeals of Baltimore County

ORDERED that the special exception to approve relocation of an existing pawnshop be and the same is hereby DENIED.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


S. Diane Levero


Harry E. Buchheister, Jr.

IN THE MATTER OF	*	BEFORE THE
THE APPLICATION OF		
COUNTRY RIDGE SHOPPING CENTER, *	*	COUNTY BOARD OF APPEALS
INC.; SOUTHSIDE BROKERS, INC.		
FOR A SPECIAL EXCEPTION ON	*	OF
PROPERTY LOCATED 767' SE OF		
BACK RIVER NECK ROAD	*	BALTIMORE COUNTY
(1508 Back River Neck Road)		
11TH ELECTION DISTRICT	*	CASE NO. 96-226-X
5TH COUNCILMANIC DISTRICT		
* * * *	*	* * * *

DISSENTING OPINION

This case involves a Petition for Special Exception, the approval of the relocation of an existing pawnshop to a new location. The hearing on this matter consumed two full days of testimony and evidence. Public deliberation took place on Thursday, April 17, 1997. At that time, the Board members denied the special exception request, two in favor, one opposed. This Opinion represents the dissenting viewpoint.

There are two issues present in this case. The first involves legislation enacted by the Baltimore County Council under Section 436 of the Baltimore County Zoning Regulations (BCZR) (Bill No. 112-95), seeking to regulate the pawnshop business, and limiting the number of pawnshops in Baltimore County and the relocation of same in a restrictive manner. Under Section 436.4, "Special Exception Petitions":

"A special exception petition for a pawnshop is subject to the following regulations:

(A) A pawnshop may not be located within a one-mile radius of any other pawnshop, and no more than two pawnshops may be located in a councilmanic district.

(B) The Zoning Commissioner may reasonably limit the hours of operation of a pawnshop."

Under Section 6 (Bill No. 112-95), it recites: "And be it further enacted, that pawnshops lawfully in existence and operating

on the effective date of this act are not subject to the requirements of Section 436.4." The Petitioner was a licensed pawnbroker at the time the act became effective on July 3, 1995. The Petitioner sought to relocate his pawnshop from a Pulaski Highway location to the co-Petitioner's premises in the Country Ridge Shopping Center in the Spring of 1996. That center is located in a B.M. zone in which such pawnshops are authorized to conduct business under the County regulations.

Because of the relocation, it was necessary for the Petitioner to comply with Title 09 "Department of Licensing and Regulations [subsection 25], Second Hand Precious Metals and General Dealer and Pawn Brokers." The broker was required to obtain a new license before engaging in the second-hand precious metals business at the new address. There was no question but that the pawnshop was lawfully in existence and in operation on the effective date of the Act, but by Maryland State law, the broker was required to apply for a new license at the relocating address. The shop was both lawfully in existence and operating at the Pulaski Highway address as of the effective date of the Act, that is July 3, 1995, relocating to the Country Ridge Shopping Center location in the Spring of 1996.

It appears to me that Bill No. 112-95 and Section 6 apply to pawnshops such as that of the Petitioner in that the pawnshop was lawfully in existence and operating on the effective date of the Act. Section 6 recites: "And be it further enacted, that pawnshops lawfully in existence and operating on the effective date of this Act are not subject to the requirements of Section 436.4." The

fact that it had to apply for a new license by Maryland law does not indicate that it ceased to be legally in existence and operating. The law simply requires a new license before engaging in the second-hand precious metals business at the new address. There is no doubt but that the County Council was concerned relative to the undue concentration or the inappropriate siting or design of pawnshop businesses, since the Council felt that such operations had a reasonable (but not conclusive) probability of causing adverse effects on nearby residential and commercial areas by creating an impression of community decline and instability. There is also a considerable amount of verbiage throughout Section 436 that relates to community conservation efforts, the Master Plan, and the number of pawnshops needed to be regulated and that the number of presently existing pawnshops in Baltimore County was more than sufficient to meet the needs of the community. So therefore the County Council elected to limit the total number of such businesses being consistent with the public health, safety and general welfare of the County. To that end, the Council elected to put in the legislation a restriction that a pawnshop location may not be within a one-mile radius of any other pawnshop, and no more than 2 pawnshops could be located in a councilmanic district.

From an historical viewpoint, prior to the adoption of the Bill in question, a pawnshop was a use permitted as a matter of right in a B.M. and B.R. zones. The Bill changed that right and required that going forward, pawnshops would only be permitted in those two zones by special exception. In addition to the normal requirements for the granting of a special exception, as specified,

in Section 502.1 of the Baltimore County Zoning Regulations, the Bill imposed certain new requirements in its enactment of Section 436.4 of the BCZR.

In a clear reading of the express language of Section 6, the County Council exempted pawnshops lawfully in existence and operating as of July 3, 1995, from the requirements of Section 436.4 as enacted by the Bill, as to an existing pawnshop business; however, the provisions of the Bill requiring the granting of a special exception would only be applied if the existing business wanted to relocate. No special exception would be needed if the business stayed at its present location. Therefore, had the County Council intended to subject an existing pawnshop business, seeking to relocate, and to obtain a special exception for that purpose to the requirements of Section 436.4 of the BCZR, then the language of Section 6 of the Bill would be pointless and serve no useful purpose. Such a construction must be avoided. It is fundamental in legal interpretation that an enactment should be construed so as to give effect, if possible, to every word, clause or sentence therein, and that no part would be inoperative, superfluous, void or insignificant.

If the County Council had intended such pawnshops not to have the ability to relocate into areas within the one-mile radius factor, and also be excluded from any councilmanic district that already had two existing pawnshops, the Bill could have been written in a more specific and restrictive manner. It was not! Additionally, if the Council specifically did not desire such pawnshops to be located in community conservation areas, the Bill

would have been crafted differently. It was not! By including the special exception requirement, the County Council saw fit to permit such inclusion in an area where the administrative board has the authority to allow specific uses which the legislature (or Council) has determined to be permissible. Following through, granted that authority, the Board is, I believe, called upon to grant the relocation of the pawnshop in question, since Section 6 of Bill No. 112-95 references "Pawnshops" lawfully in existence and operating as of July 3, 1995; and, not "Pawnbroker." The Act references location, and not the license required to conduct the business.

As Judge Rita Davidson stated in Schultz v. Pritts, 291 Md. 1, 20-22 (1981):

"When the legislative body determines that other uses are compatible with the permitted uses in a use district, but that the beneficial purposes such other uses serve do not outweigh their possible adverse effect, such uses are designated as conditional or special exception uses. Such uses cannot be developed if at the particular location proposed they have an adverse effect above and beyond that ordinarily associated with such uses. (Emphasis added.)

* * *

"If [the applicant] shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide."

The significant question before the Board is one of the Special Exception requested and required by Section 436.4 of the BCZR. The Board heard testimony from several area residents, Mr. Jack Hession; Mr. Charles Poole; and Mr. Alfred Clasing. All

expressed concern over the presence of a pawnshop in a community conservation area; and expressed their concerns that the presence of such a shop would draw undesirable elements into the area. Most of that which was expressed was based on opinion as long time area residents, and, at least in my mind, not factually conclusive.

Captain James Johnson, who is the commander of the Essex District, Baltimore County Police, also testified at length concerning crime in the area. He also related to the Board members the extreme methodology by which his department must detail the daily operations of pawnshops. He indicated that the pawnshop in question had not had any violations according to his records, but did express concern that another pawnshop in the district would simply exacerbate additional reporting requirements on his district's employees who were already heavily overworked. He described what were salutary effects on recent community conservation efforts and the County enhancement projects to revitalize the area which had brought down the amount of crime in the immediate area of the Country Ridge Shopping Center.

Mr. John Dillon also testified in opposition to the pawnshop. While Mr. Dillon proffered that, in his opinion, the Petitioner's pawnshop would be detrimental to the health, safety or general welfare of the community, based on historical concepts, he also indicated that as part of the report done on the regulation of pawnshops for the Baltimore County Council, in which he was an active participant, he could not find any factual documentation that pawnshops caused neighborhood instability or significant increase in crime. He further stated that the Essex area was in

the midst of rehabilitation and that homes of substantial worth (between \$200,000 and \$500,000) were being contemplated within a few miles of the shopping center, which he indicated was the first major center going north from the peninsula. He further admitted that he had been in the shopping center, and had gone into the Petitioner's shop and that there were no vacancies in the shopping center (which would certainly be a sign of decay or decline) and that the operation appeared to be a well-run retail establishment.

Ms. Mary Emerick also testified on behalf of the Protestants and opined as to what she considered to be a successful implementation of the County's community conservation plans for the Essex area. These included substantial new development along Weber Road, and a new restaurant and marina to be known as Hopewell Point. However, as was the case with many of the other Protestants, much of what was stated concerning pawnshops giving "the perception of decline to an area and having a negative impact on a neighborhood in transition" and was based on opinion rather than fact.

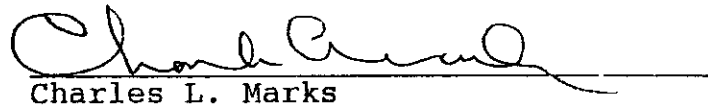
During the course of any hearing, Board members hear much testimony and need to separate opinion from fact. There are those who honestly believe that pawnshops are simply places to "fence" stolen property; and are establishments that can attract a criminal element into the neighborhood in which they are located. There are also those who firmly believe that pawnshops have the reputation of attracting a low-income clientele. However, it must be kept in mind that such establishments are permitted, regulated, monitored, and heavily controlled by the State in its policing authority.

Captain Johnson very succinctly described the daily activity required of his department in reporting all transactions, and found the subject operation to be totally in compliance with no incidents reported as to stolen goods or inappropriate activities. It is undeniable that pawnshops must be located in an area or locale where their services are needed and the public is served. If the operation is outside the area of need and where it can operate profitably, its purpose is not functional, and it will cease to exist. Obviously there is a need in the Country Ridge Shopping Center area for such a service. If not, there would not be any patronage. There were no objections presented on the part of any of the presently existing merchants in the shopping center that would cause this Board to believe that its presence has diminished any patronage of their particular services. It was also evident at the hearing that there are currently no vacancies in the shopping center. It was also evident from the testimony that the Country Ridge Shopping was located in the vicinity of Back River Neck Road and that that area is heavily commercially developed along both sides of the roadway, which included a variety of businesses; i.e., auto repair shops, gas stations, pizza shops, and multiple other businesses.

Perhaps there are some who have the opinion that a pawnshop operation is an unnecessary evil that detracts from the neighborhood. People's Counsel has recited in their brief (page 12) various California and Virginia cases where "those witnesses, by antidote, experience, observation, and opinion, testified to the tendency of pawnshops to prey on disadvantaged persons, hurt the

character, image and property values in the neighborhood, and generally help drag a neighborhood down," that credibility should be afforded such opinions. However, there was also testimony that extensive community conservation efforts have caused a rebound in the general area with substantial crime reduction; and increased real estate values as new development emerges because of the County's efforts. It is unfortunate that the substantive portions of the Protestants' case evolved around considerable opinion and conjecture. My associate Board members obviously felt that the case presented by the Protestants outweighed that offered by the Petitioner. However, my conclusions are based on the lack of factual evidence which leads me to believe that the proposed use would be conducted without real detriment to the neighborhood and would not affect the public interest.

After two days of intensified hearings, I could not conclude that there were strong and substantial existing facts or circumstances showing that the particularized proposed use had a detrimental effect above and beyond the inherent ones associated with such uses. Therefore, I respectfully dissent from the Majority Opinion.


Charles L. Marks

DATE: April 30, 1997

PETITION OF SOUTHSIDE BROKERS, INC	*	IN THE
FOR JUDICIAL REVIEW OF THE	*	CIRCUIT COURT
DECISION OF THE BOARD OF	*	FOR
APPEALS OF BALTIMORE COUNTY	*	BALTIMORE COUNTY
IN RE: COUNTRY RIDGE SHOPPING CENTER,*		
INC./SOUTHSIDE BROKERS, INC.	*	CASE NO. 03-C-97-5479

* * * * *

MEMORANDUM OPINION AND ORDER

This matter comes before the Court pursuant to Maryland Rule 7-201, et seq., as an appeal from a decision of the Baltimore County Board of Appeals dated April 30, 1997, reversing the decision of the Zoning Commissioner rendered April 19, 1996. The Zoning Commissioner initially denied Petitioner's Petition for Special Exception on January 20, 1996 and consequently granted it upon a Motion for Reconsideration.

This Court conducted a hearing on January 20, 1997, at which time the Court entertained the argument of Roger N. Powell, Esquire, attorney for Petitioner, and Peter M. Zimmerman, Esquire, People's Counsel for Baltimore County. J. Carroll Holzer, Esquire was present on behalf of Respondents Back River Neck Community Association, Carl Maynard, President, and John M Hession and Alfred E. Clasing individuals. At the time of the hearing Mr. Holzer adopted Mr. Zimmerman's oral argument. The Court has carefully considered the arguments presented by counsel, the legal memoranda filed, the transcript of record, and the applicable statutory and case law in rendering its decision in this matter.

FACTS

The relevant facts of this case are not in dispute. Petitioner was a pawn shop in operation at 8110 Pulaski Highway prior to the enactment of Bill 112-95 on July 20, 1995 dealing with pawn shops already in existence. Bill 112-95 created new Baltimore County Zoning Regulation Section 436. BCZR 436 made legislative findings regarding the adverse effects of pawn shops on our communities, created reporting procedures and buffer and sign requirements, and requirements of special exception petitions. Petitioner filed a Petition for Special Exception for approval of relocation of his existing pawn shop to the Country Ridge Shopping Center on 1508 Back River Neck Road.

On January 22, 1996 the Zoning Commissioner denied the petition because it failed to meet the minimum distance requirement of one mile from an already existing pawn shop located on Eastern Boulevard. The Zoning Commissioner reversed his decision on the basis that the one mile limit does not apply because the pawn shop was relocating from an already existing location, and therefore the special exception applied. On appeal, the County Board of Appeals found that the Petitioner failed to meet the minimum distance requirement and denied the special exception. Petitioners have requested a judicial review of the Board's decision.

QUESTIONS PRESENTED FOR REVIEW

The Petitioners present three basic questions for review. They may be summarized as follows:

- I. Does BCZR 436.6 exempt Petitioner from the Special Exception Petition Requirement of BCZR 436.4?

II. Did the Board of Appeals properly deny Southside's Petition for Special

Exception?

III. Is Bill 112-95 unconstitutional?

SCOPE OF REVIEW

In reviewing a decision of the Board of Appeals, the Circuit Court is limited to whether that decision is "in accordance with the law." Maryland Code Annotated, Article 25A § 5(U) (1957, 1994 Repl. Vol.). The Circuit Court may correct any abuse of discretion by an

administrative agency, such as the County Board of Appeals. The Court may also reverse or modify the Board's actions when they are unsupported by facts, arbitrary, illegal, capricious, or unreasonable. Heaps v. Cobb, 185 Md. 372 (1945); Art Woods Enterprises v. Wiseburg Community Assoc., 88 Md. App. 723, 727 (1991). However, the scope of judicial review of

decisions by administrative agencies is markedly narrow, recognizing that the Board members have expertise in a particular area and, ultimately, should be free to exercise their discretion as such. Finney v. Halle, 241 Md. 224 (1966).

Thus a reviewing court will not substitute its judgment for that of an administrative board where the issue is freely debatable and the record contains substantial evidence supporting the administrative decision. Montgomery County v. Woodward and Lothrop, Inc., 280 Md. 686 (1977). Accordingly, the Circuit Court's role is limited to determining whether or not there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine whether or not the agency's decision is premised upon a proper construction of

the law. United Parcel Service, Inc. v. People's Counsel for Baltimore County, 336 Md. 569, 577

(1994).

ANALYSIS

I. BCZR 436.6 states that “pawn shops lawfully in existence and operating on the effective date of this Act are not subject to the requirements of Sections 436.4.” Petitioner argues that, because the pawn shop existed when BCZR 436 was enacted, it is not subject to the conditions in Section 436.4, which states that a special exception petition for a pawn shop is subject to the requirement that the pawn shop may not be located within a one mile radius of any other pawn shop, and no more than two pawn shops may be located within the same councilmanic district.

The Court must agree with Respondents’ interpretation of the “grandfather clause.” The pawn shop was already in existence at the Pulaski Highway location. However, the location for which the exemption is requested is in the Country Ridge Shopping Center. Zoning ordinances are not concerned with ownership or occupants, but are concerned with property locations and use. Mayor & City Council of Baltimore v. Poe, 224 Md. 428 (1961), Boulevard Scrap v. Baltimore, 213 Md. 6 (1957). The exemption would apply to the Pulaski Highway location only as an already existing pawn shop. Petitioner is subject to the requirements of BCZR 436.4 because the Country Ridge pawn shop was not already in existence prior to the enactment of BCZR 436.

II. The next question the Court turns to is whether the Petition for Special Exception was properly denied. The evidence before the Court does support the finding that the Petition was properly denied. BCZR 502.1 sets the standard for granting a special exception. Of concern here

is the detrimental effect of the pawnshop to the locality and whether granting the special exception will be inconsistent with the spirit and intent of the zoning regulation. Applying the standard set forth in Schultz v. Pritts, 291 Md. 1 (1981) the Board looked at whether the adverse effect at the particular location is greater than ordinarily associated with the use, and whether the use is in harmony with the intent of the plan. The Board heard uncontradicted testimony from citizens and professionals that amply supports the conclusion that the adverse effects are greater in the subject neighborhood and that the use of the location for a pawnshop is clearly inconsistent with the purpose of BCZR 436.

BCZR 436 also sets forth locational standards. Section 436.4 (A) states that a pawnshop may not be located within a one mile radius of any other pawnshop, and no more than two pawnshops may be located in a councilmanic district. The Board's decision was supported by a computer generated map which was produced to show that the Country Ridge location is clearly within a one mile radius of another pawn shop on Eastern Boulevard. There is no question that there are already at least two pawn shops in the Seventh Councilmanic District. Clearly the evidence supports the denial of the Petition for Special Exception.

Additionally, Petitioner asserts that the Board committed reversible error in considering evidence outside the record. The Court finds no merit in this argument. The Board simply observed that two pawn shop owners appeared in protest before the Zoning Commissioner. The Majority Opinion clearly shows that the Board's findings and conclusions were based on the facts before it, and this passing reference was of no significance.

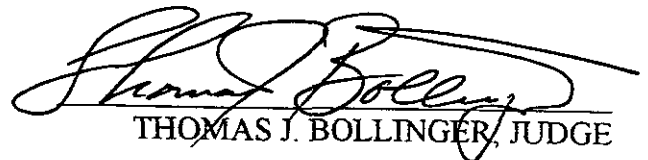
III. Finally, Petitioner poses the question of whether Bill 112-95 is unconstitutional. In support of its argument that it is unconstitutional, Petitioner states that the zoning ordinance

regulates pawn shops, which is prohibited by Annotated Code of Maryland, Business Regulation Article, Title 12. What the ordinance actually does is regulate the location of pawn shops within Baltimore County. Annotated Code of Maryland Article 25A, Sec. 5(X) gives counties the broad power to legislate with respect to zoning and planning. The state law does not involve the regulation of zoning and planning, which is exclusively within the power of the county. The Court finds nothing unconstitutional with regard to Bill 112-95.

CONCLUSION

Accordingly, it is this 9th day of February, 1998, by the Circuit Court for Baltimore County,

ORDERED that the Decision of the Board of Appeals of Baltimore County in the Petition of Southside Brokers, Inc. for Judicial Review In Re: Country Ridge Shopping Center, Inc./Southside Brokers, Inc. be and is hereby **AFFIRMED**.


THOMAS J. BOLLINGER, JUDGE

cc: Roger N. Powell, Esquire
Powell & Sorrell
107 Old Court Road
Baltimore, Maryland 21208

J. Carroll Holzer, Esquire
303 Washington Avenue
Suite 202
Towson, Maryland 21204

Carole S. DeMilio, Esquire
Deputy People's Counsel
Court House, Room 47
400 Washington Avenue
Towson, Maryland 21204

Peter Max Zimmerman, Esquire
People's Counsel
Court House, Room 47
400 Washington Avenue
Towson, Maryland 21204

The Baltimore County Board of Appeals
Old Court House

COMMONLY ASKED QUESTIONS

Pot Ex
#4

Q. How does a pawn loan work?

A. Pawnshops offer the consumer a quick, convenient and confidential way to borrow money. Pawn loans are small, short-term loans, made on non-recourse collateral items such as jewelry, electronics and musical instruments.

Pawn contracts are typically in monthly increments and ownership remains with the borrower during the life of the loan. Typically 75 percent of all loans are redeemed by the borrower. The borrower's collateral stands as credit for the loan. The process is much the same as other lending institutions, with the primary difference being the size of the loan, the collateral and the length of the contract.

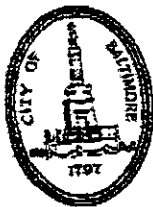
The pawnbroker's business is built on repeat customers in both the retail and loan sides of the business.

Q. Are stolen goods an issue?

A. Stolen goods are a perceptual issue, but not a reality issue. The incident of stolen goods identified in pawnshops is less than half of one percent. A customer must provide positive identification to complete a pawn transaction. This information, along with information on the item pledged, is sent to law enforcement. Thieves simply do not approach businesses that inform law enforcement to catch and convict thieves. Thieves are the worst enemy of an industry working hard to change an image.

Q. Are pawnshops a "bad times" industry?

A. Pawnshops survive bad times if they make adjustments at the retail and loan counters, but they do far better in good times. In "bad" times, customers move away to find employment, have less ability to repay their loans and the value of merchandise goes down with less demand. Regardless of income level or the "times," most people periodically borrow money. In good times, customers are more able to repay their loans and the demand for merchandise is greater. People have more discretionary income.

BALTIMORE CITY COUNCIL**LOIS A. GAREY — First District**ROOM 422, CITY HALL
100 N. HOLLIDAY STREET, BALTIMORE, MARYLAND 21202
TELEPHONE: 410-398-4828
FAX: 410-545-6817CHAIR:
LAND USE COMMITTEEVICE CHAIR:
EDUCATION & HUMAN
RESOURCES COMMITTEEMEMBER:
BUDGET & APPROPRIATIONS
COMMITTEE

HOUSING COMMITTEE

5
September 22, 1998

TO WHOM IT MAY CONCERN:

I am writing on behalf of Mickey Scherr. Mr. Scherr is the owner of Southside Brokers, Inc., in my Council district in Baltimore City.

Southside Brokers is located at Light and Cross Streets, near the neighborhoods of Federal Hill, Federal Hill South and Otterbein. Mr. Scherr runs the business in a professional manner, is active in the community, and is a genuine asset to the community.

A well run pawnbroker such as Southside can provide a needed service to the working poor of the community, without being a detriment to the affluent.

Business owners such as Mr. Scherr can contribute greatly to the revitalization and stabilization to any community in which they are located.

Thank you for your consideration.

Sincerely,

LOIS A. GAREY
CITY COUNCILWOMAN
FIRST DISTRICT

STATE OF MARYLAND

SECONDHAND PRECIOUS METAL OBJECT DEALERS AND PAWNBROKERS DAILY RETURN

TRANSACTION NO.

FORM: DLVP/MG3/P/MS/12-93/60M/95-275

MUST BE TYPED OR PRINTED LEGIBLY AND MUST BE FILLED IN COMPLETELY.

NAME OF LICENSEE

SOUTHSIDE BROKERS, INC.

REG. NO.

LICENSE NO.

ADDRESS

1101 Light Street

BALTIMORE, MARYLAND 21230

(301) 528-8228

IF AGENT FOR SELLER

PRINCIPAL'S ADDRESS

NAME OF PRINCIPAL

PLACE

DATE

TIME

MIDDLE

FIRST

SELLER'S NAME - LAST

RACE/ETHNIC I.D. (Circle or X one) **

W AFR. AM. ASIAN HISP. AM. IND.

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER

OTHER:

GLASSES

MUSTACHE

BEARD

DATE OF BIRTH

MO. DAY YR.

WEIGHT

HEIGHT

EYES

HAIR

SEX

PHONE

PHOTO

ALTER-

ATIONS

YES

NO

DESCRIBE OTHER DISTINGUISHING FEATURES

SELLER KNOWN TO DEALER

YES ☐ NO ☐

TATTOOS/SCARS/OTHER



96-226-X 226 cad/omr
Petition for Special Exception

to the Zoning Commissioner of Baltimore County
for the property located at 1508 Back River Neck Rd.

which is presently zoned BW

This Petition shall be filed with the Department of Permits & Development Management

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for A Pawnshop.

Relocation of existing Pawnshop

PETITIONER
EXHIBIT 6

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Sunlside Brokers, Inc.

(Type or Print Name)

M. Allen, Pres (MEYER SCHERR)

Signature

1101 LIGHT ST.

Address

Baltimore MD 21230

City

State

Zipcode

Attorney for Petitioner:

Roger W. Powell

(Type or Print Name)

Signature

107 Old Court Rd. (410) 653-0262

Address

Phone No.

Baltimore MD 21208

City

State

Zipcode

Legal Owner(s):

COUNTRY RIDGE SHOPPING CENTER, INC

(Type or Print Name)

GARY S. SALVO PRES.

Signature

GARY S. SALVO

(Type or Print Name)

Signature

11509 PULASKI HWY 335-3510

Address

Phone No.

WHITE MARSH MD 21162

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

GARY S. SALVO

Name

11509 PULASKI HWY 335-3510

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

1 HOUR

the following date

Next Two Months

ALL ☒ OTHER

REVIEWED BY [Signature]

DATE

11/29/95



Revised 9/5/95

E.10

Phone conversation

Per Pat Roddy of CAW OFFICE 11/29/95 8:30 AM
Since Mr. Schen has been legally operating he is exempt from
"no new licenses to exceed 12" in Bill 112-95
~~since he is over~~ Special exception is required for
under location.

again per Mr Roddy.

He is exempt from Council district limits and
1 mile radius

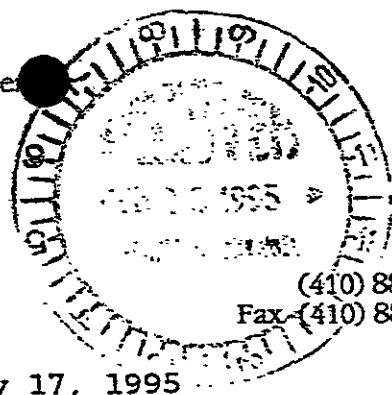
JGR 11/29/95

Item # 226.

PETITIONER'S
EXHIBIT 7

PETITIONER'S EXHIBIT

Baltimore County Government
Planning Board



401 Bosley Avenue
Towson, MD 21204

(410) 887-3211
Fax (410) 887-5862

February 17, 1995

The Honorable Vincent J. Gardina
Chairman, Baltimore County Council
Court House
Towson, Maryland 21204

P.C. gh #17

Re: Proposed Amendments to the
BCZR Regarding Pawnshops

Dear Councilman Gardina:

Enclosed is a Final Report of the Baltimore County Planning Board, adopted February 16, 1995, which I am submitting to you in accordance with Section 26-123(c) of the Baltimore County Code, 1988.

Bill 14-95 imposed a "freeze" on new pawnshops until recommendations were received from the Planning Board. This report recommends limiting the total number of pawnshops in Baltimore County to 25 and requiring a special exception for any new pawnshop. New pawnshops would also be subject to performance standards. Pawnshops dealing only in secondhand precious metals would not be affected.

Sincerely,

Pat Keller

Pat Keller, Secretary
Baltimore County Planning Board

PK/KEB/mjm
LETGPS/PZONE/TXTKEB

Enclosures

cc: Hon. C.A. "Dutch" Ruppertsberger, III, County Executive
Members, Baltimore County Council
Merreen E. Kelly, Administrative Officer
Thomas Peddicord, Legislative Counsel/Secretary
Lawrence Schmidt, Zoning Commissioner
Stanley J. Schapiro, County Attorney
Patrick Roddy, Director, Legislative Relations
Arnold Jablon, Director, ZADM
Peter Max Zimmerman, People's Counsel



Printed with Soybean Ink
on Recycled Paper

E. 63

Introduced November 10, 1994
Planning Board Public Hearing January 5, 1995
Revised Final Report adopted February 16, 1995

Legislative Project # 94-06

PROPOSED AMENDMENTS TO THE
BALTIMORE COUNTY ZONING REGULATIONS
REGARDING PAWNSHOPS

A Final Report of the Baltimore County
Planning Board
Adopted February 16, 1995

This report is in response to Council Resolution 31-94 (Attachment 1), which requests the Planning Board to consider proposing amendments to the Baltimore County Zoning Regulations in order to require a special exception for pawnshops located in BM and BR zones.

BACKGROUND

The Zoning Regulations permit pawnshops by right in BM and BR zones, but the use is not defined. In cases where no definition is provided, the Zoning Regulations require that the most recent edition of Webster's Third New International Dictionary be consulted. That dictionary defines a "pawnshop" as: "A pawnbroker's shop" and a "pawnbroker" as: "One that loans money on the security of personal property pledged in his keeping."

Pawnshops have traditionally been located in the central business district of cities and this is true for the Baltimore region. Recently however, new pawnshops have located along the commercial corridors outside the core. As is often the case in economically hard times, the number of such businesses has grown significantly. In Baltimore City, pawnshop operations increased from 16 to 45 between 1990 and 1994. Responding to community concerns, City Council in May, 1994 adopted Bill No. 818 to strengthen the City's licensing law which regulates pawnbrokers. The bill limited the total number of pawnshops permitted in the City to 45, increased the surety bond from \$10,000 to \$50,000 and stiffened penalties for violations. Since City Council Bill No. 818 prevents new pawnshops from locating in the City, County residents fear that more such establishments may move into Baltimore County.

E.64

Regulation of Pawnshops

For centuries, pawnshops have provided a service to law-abiding citizens. However, pawnshops can also be places to "fence" stolen property and can attract a criminal element into the neighborhood in which they are located. Because pawnshops can become linked to the commission of crime, jurisdictions are permitted to apply stricter regulations to pawnshops than to other kinds of businesses (McQuillin, Municipal Corporations, Vol. 19, Sec. 26.62). In most jurisdictions, pawnshops are subject to special licensing requirements, in addition to the standard vendor's license and local zoning.

From 1964 to 1982, Baltimore County licensed pawnshops. The regulations were codified in Title 19 of the County Code. They defined "pawnbroker" and regulated the manner in which the business was to be conducted. The County required that records be kept of pawned items involving precious metals or stones, serialized items, electronic equipment, furs, bicycles and other valuables. These records had to be submitted to the Police Department daily. Title 19 also required a pawnbroker to file a \$10,000 bond with the County.

In 1981, the State adopted regulations for the licensing of Secondhand Precious Metal Object Dealers as part of the Maryland Annotated Code (Art. 56, Secs. 416-425). A 1982 amendment expanded the coverage of the law to include pawnbrokers. In 1992, this part of the Annotated Code was recodified as Title 12 of the Business Regulations Article. Title 12 governs all "dealers" in secondhand precious metals and numismatic items, including pawnbrokers. The State law recognizes that the business practices of the various dealer types are similar and makes them subject to the same licensing procedures. At the same time, the State acknowledges that they are different by providing definitions which distinguish "dealers" from "pawnbrokers":

"Dealer" means a person engaged in the business of buying, acquiring, or trading commercially with members of the public in secondhand precious metals in this State or, unless otherwise provided, a pawnbroker. [12-101(b)]

"Pawn transaction" means a loan of money by a dealer on deposit or pledge of personal property or other valuable thing other than securities or printed evidences of indebtedness, or a purchase by a dealer of personal property or other valuable things on condition of selling the same back at a stipulated price. [12-101(f)]

"Pawnbroker" means a person who engages in pawn transactions. [12-101(e)]

In addition to specifying requirements for obtaining a license, the State, since 1981, has substantially limited the authority of local jurisdictions to regulate businesses dealing in numismatic items and secondhand precious metals. This includes pawnbrokers if they

deal in such merchandise, which virtually all pawnbrokers do. Title 12, Paragraph 102 (d) states:

Powers of county or municipal corporation.--(1) A county or municipal corporation may not enact a law to regulate dealers, coins, or numismatic items.

(2) This title supersedes any existing law of a county or municipal corporation that regulates dealers, coins, or numismatic items.

The County repealed Title 19 of the County Code in the 1989 re-codification and thereby officially acknowledged the loss of its licensing power. The ordinances of Baltimore City, Anne Arundel, Prince George's and Montgomery County were somehow "grandfathered", i.e. these jurisdictions apparently retained the authority to license and regulate pawnbrokers. This is why Baltimore City was able to change its laws recently.

Title 12 requires pawnbrokers to obtain a license from the State Department of Licensing and Regulations which is subject to renewal every two years. Applicants, including each employee, must be finger-printed and have a criminal background check. Pawnbrokers are required to keep a daily record of valuables. The registration involves filling out a form which provides a description, any serialized numbers and the assessed value of the pawned item, as well as the name and address of the client. The local law enforcement agency administers this part of the Annotated Code.

In many ways the State's regulations simply duplicate or replace the County's earlier provisions. However, several of the County's rules were stricter than those demanded by current State law. The Baltimore County Code required that a pawnbroker's license be obtained annually for \$1,000; the State license costs only \$300 and is good for two years. The County required the posting of a \$10,000 bond; the State does not require a bond. Also, the County, rather than the State, had the power to deny or revoke a license and the County was free to impose its own standards.

Pawnshops in Baltimore County

The number of businesses that are licensed as secondhand precious metal object dealers and pawnbrokers in Baltimore County has increased significantly in recent years. In 1991 there were 27 dealers. By January 1995, there were 36. However, not all 36 businesses are pawnshops. Some of the businesses licensed as secondhand precious metal dealers are jewelry stores that buy and sell estate jewelry, but never loan money on personal property. Others are jewelry stores that trade in secondhand precious metals, but also loan money on such items. The third category are businesses which, in addition to loaning money on secondhand precious metals, also deal in "hard goods", the term used by the pawnbroker industry for such

valuables as electronic equipment, furs, guns, musical instruments, etc.

As far as the State is concerned it is of no interest whether a dealer purchases jewelry, sells jewelry or pawns hard goods. All businesses receive the same license. From a community conservation point of view, however, it is important to make a distinction between the various business types. A jewelry store that buys or provides loans for secondhand precious metals looks in outward appearance very much like any other jewelry store. Tucked into a neighborhood shopping center, announcing "loan on deposit" service on a small, discreet sign inside or outside of the store, some of these shops have served an established clientele for generations. In this type of store loaning money on deposit usually makes up only a small part of the overall business volume.

In contrast to jewelry stores, the principal business of dealers of "hard goods" is to loan money on personal property. These businesses are highly visible and tend to locate along major commercial roads where they are easily accessible. These shops often use big, colorful, flashy signs that advertise in no uncertain terms that this is a place where items can be pawned and "quick cash" obtained. Of the 36 dealers in Baltimore County, 11 deal in hard goods. Four opened in 1994.

In general, pawnshops have the reputation of attracting a low income clientele. Low income people may have difficulty getting loans due to bad credit ratings or lack of collateral. While others have the option of using credit cards, or applying to banks or other financial institutions to obtain loans, poorer people may need to resort to pawnshops. Representatives of the pawnbrokers' industry feel they provide a service to those who are less fortunate and think of themselves as being the "poor man's bankers". Additionally they point out that pawnbrokers also have middle and upper income customers. These customers may want to obtain cash discreetly or need funds to pay a bill or meet payroll while waiting for a payment from a third party.

The Planning Board could not locate documentation that pawnshops cause neighborhood instability or an increase in crime, yet it is well established that perceptions affect real estate decisions. The presence of a pawnbroker, especially a shop which is clearly and loudly advertised as such, is often seen as a sign of neighborhood decline and such an image could influence the decision of established businesses to stay in the area and affect what types of new businesses will locate there. The presence of a pawnshop could likewise sway the real estate decisions of nearby homeowners.

DISCUSSION

The licensing regulations discussed above extend only to the conduct of the business trade. Land use considerations were neither addressed by the County in Title 19, which formerly controlled pawnshops, nor are they included in the State regulations that govern

E. 67

pawnshops today. To ascertain that the County has authority to enact zoning regulations for pawnshops, the Planning Board asked the County Attorney to review the preemption provision of Title 12 (see p. 3) and was advised that the State's regulations do not preempt the County's authority to establish location, setback and other customary zoning regulations, including conditions for granting special exceptions.

The majority of the nearby metropolitan jurisdictions permit pawnshops by right in some or all business zones. Pawnshops generally are not defined and are not separately catalogued in the use listings, i.e. they are regulated the same as other retail uses. The one exception is Fairfax County, Virginia, which defines pawnshops and permits them by special exception in three of its nine commercial districts. The standards which Fairfax County uses as a basis for reviewing a special exception request are open ended. An applicant must prove that the use proposed would be "in harmony" with the adopted comprehensive plan as well as with the "general purpose and intent of the applicable zoning district regulations" and that it would be harmonious with and would not adversely affect the use or development of neighboring properties. The special exception requirement for pawnshops was enacted in 1992 and has not yet been tested although two petitions have recently been submitted. Also, Fairfax County, which has a population 18 percent larger than Baltimore County, allows no more than 12 pawnshops in the County.

Baltimore County currently has no way to control the location of pawnshops within BR and BM zones. Provided that the dealer's license is obtained from the State, pawnshops can locate anywhere in these zones. The State is not required to forward license applications to the County to determine compliance with local zoning.

RECOMMENDATIONS

The Planning Board recommends creating a new section in the Zoning Regulations which would deal exclusively with pawnshops. The Section would include a statement of findings that would provide background information and explain the legislative intent of the proposed regulations.

A definition should be added to Section 101 to ensure that the proposed regulations would apply only to dealers licensed by the State who engage in pawn transactions. The Planning Board recommends that the definition exclude dealers who only trade in secondhand precious metals or gems, for the reasons stated above. The definition should also exclude other businesses which deal in secondhand goods such as thrift shops or consignment stores since these businesses do not fall within the police power of the State dealer's license.

The total number of pawnshops, as defined in the Zoning Regulations, should be limited to eleven. The cap would prevent any other pawnshop from locating in Baltimore County until an existing pawnshop license expires or is revoked by the State. The proposed regulations would allow the existing eleven businesses which pawn

E.68

↓

"hard goods" to remain in operation, even if there is a change in ownership, as long as the business continues at the same site and the new owner obtains a State dealers' license.

The cap was suggested by the Baltimore County Police Department because of recent increases in the number of pawn transactions. Capping the total number of pawnshops in Baltimore County would facilitate the Police Department's efforts in retrieving stolen property. Other reasons for the cap are that the existing pawnshops accommodate local needs and additional business would undermine the County's community conservation efforts.

In addition to the number of pawnshops, another concern is that the concentration of pawnshops in one place could accelerate the decline of a marginal neighborhood or business area. A spacing requirement which sets a minimum distance between pawnshops would address this problem. The Planning Board proposes a one mile radius. Representatives of communities that already have pawnshops favor a distance requirement of three to five miles. The Planning Board feels that a three to five mile distance requirement, in addition to a cap, is unnecessarily restrictive and would force any new pawnshops into areas in which there are presently none. This policy would not serve the County's community conservation goal. On the other hand, a one mile distance requirement, combined with the cap, would prevent the undue concentration of pawnshops in any one area.

Provided the cap is not exceeded and the spacing requirement is met, any new pawnshop should be permitted in BM and BR zones by special exception rather than by right. The special exception process is designed to allow for discretionary approval in cases where uses that are permitted in the zone are not suited for all locations. A use permitted by special exception cannot be "detrimental to the health, safety, or general welfare of the locality involved" (B.C.Z.R. Section 502.1, paragraph a). The siting of a pawnshop could have an effect that is detrimental to the community. The fact that much of Title 12 in the State law is devoted to procedures intended to prevent the trade in stolen property shows that, in the eyes of the law, pawnshops are more likely to become a locus of criminal activity than other retail uses. The special exception process would give the County some control over where pawnshops might be located, which supports the County's commitment to conserve communities.

Approval by special exception also provides an opportunity to apply performance standards that can help ensure that a use will be more compatible with its surroundings. Mandating that a landscape buffer be provided where pawnshops abut a residential zone line, church or school would further strengthen the special exception requirement. BR and BM zones are frequently adjacent to residential zones and a buffer in the form of a six foot high fence in combination with landscaping may lessen some of the safety concern of residents.

E. 69

While field checking pawnshops, it became apparent that businesses with glaring signs and large lettering have a greater negative impact on a neighborhood than businesses using discreet signage. The Planning Board recommends giving the Zoning Commissioner broad authority to approve the placement, design, size of lettering and coloring of pawnshop signs. Similar requirements are presently used for business signs in CR zones and for "striptease business" signs. Also, banners and temporary signs should be prohibited.

None of the regulations proposed in this report would apply to licensed dealers who deal only in secondhand precious metals or gems, regardless of whether they purchase such items or loan on deposit.

The regulations proposed in this report only consider the land use implications of pawnshops, but many of the problems associated with pawnbrokers relate to the manner in which the business is being conducted and cannot be resolved through zoning. Establishing a higher licensing fee which covers all administrative and enforcement costs, requiring that pawnbrokers be substantially bonded, raising the penalties for violations, and increasing the holding limit for pawned items to allow more time for police investigation would together make it more likely that a pawnbroker would operate as a legitimate business. The County should also work closely with the State to assure that licenses are not issued to applicants who have not met County zoning requirements. These changes will require cooperative legislative action by the General Assembly. During the Planning Board's January 5, 1995 public hearing, State Senator Dolores G. Kelley offered support at the State level and she has introduced two bills, S.B. 317 and S.B. 318.

On February 6, 1995 the County Council enacted Bill 14-95 which places a six month "freeze" on new pawnshops. The bill allows the Council time to consider the Planning Board's recommendations and gives the County a tool to prevent any trader's license from being signed off by Zoning Administration and Development Management.

The Baltimore County Zoning Regulations, as amended, should be further amended as indicated below. Bold indicates text to be added, { } indicates text to be deleted.

1. To Section 101 add the following definitions:

Pawnshop: A business which loans money on deposits of personal property, other than securities or printed evidences of indebtedness, or deals in the purchase or possession of personal property on condition of selling the same back to the pledgor or depositor. A pawnshop is licensed by the State as a dealer and defined by the State as a pawnbroker. For the purpose of these regulations, a business where money is loaned on deposits of secondhand precious metals, only, shall not be considered a pawnshop provided that the dealer does not loan money on deposits of any other kind of personal property.

E. 70

2. In Section 233.2 -- Uses permitted by right in BM zones, delete
[Pawnshop]
3. To Section 233.4-- Uses permitted by special exception in BM zones
add:

Pawnshop
4. To Section 236.4--Uses permitted by special exception in BR zones,
add:

Pawnshop

5. Create a new Section:

Section 436--Pawnshops. This Section applies only to pawnshops as defined in Section 101 of these Regulations.

A. Statement of Legislative Findings and Policy

1. The principle of community conservation is an expressed goal in Baltimore County. The Master Plan 1989-2000 proposes that "commercial activities incompatible with local neighborhoods should be restricted in such areas;" and
2. The State requires that businesses which purchase or loan on deposit of secondhand precious metals and other valuables obtain a "dealer's" license and report transactions to the local law enforcement agency to help prevent stolen items from being traded; and
3. The County Council finds that an undue concentration or the inappropriate siting or design of pawnshop businesses has a reasonable probability of causing adverse effects on nearby residential and commercial areas by creating an impression of community decline and instability; and
4. The County Council finds, as reported by the Police Department, that pawnshops which deal in a wide variety of valuable goods are more likely to have a greater deleterious effect on neighborhoods than businesses which deal exclusively in secondhand precious metals, where pawn transactions are merely incidental to the sale of new or secondhand jewelry; and
5. Such adverse effects would directly conflict with the County's commitment to conserving and revitalizing older communities and would be inordinately difficult to overcome once ill-sited pawnshops have been established; and
6. The Council finds that it is consistent with the intent of these Regulations for promoting health, safety and welfare to

E.⁸ 71

establish a limit on the total number of businesses in Baltimore County which loan on deposit of items other than secondhand precious metals.

B. Procedures

1. By {five days after adoption of Bill }, the Chief of Police, based on transaction sheets submitted by dealers, shall report to the Director of ZADM the names and addresses of all licensed dealers in Baltimore County who, in calendar year 1995, made loans on deposit of an item other than a secondhand precious metal.
2. Upon receipt of a dealer's transaction sheet reporting a loan on deposit of any item other than a secondhand precious metal, the Chief of Police shall report to the Director of ZADM the name and address of the business, if the Chief has not previously reported this information to the Director.
3. For any license reported to the Director, the Chief shall promptly notify the Director when the State renews or revokes the license or when the license expires.
4. The Director of ZADM shall not accept a special exception petition for a pawnshop if there are eleven valid dealers' licenses in the County used to operate pawnshops, except when an existing licensee certifies by affidavit that the shop which the licensee is authorized to operate will be closed on or before the date a new shop is opened. Any unexpired or suspended license shall be considered a valid license. A revoked license shall not be considered a valid license.
5. A dealer reported to ZADM may, by affidavit, annually declare to the Director that all future pawn transactions shall be limited to secondhand precious metals and the Director shall remove the name and address of that pawnshop from the list, during such time as the affidavit remains in effect.

C. Any special exception petition for a pawnshop shall be subject to the following requirements:

1. No pawnshop shall be located within a one mile radius from any other pawnshop;
2. Any pawnshop abutting a residential zone line (other than a street right-of-way), a school or a church, shall provide a buffer in the form of a six foot high board on board fence or brick wall in combination with landscaping;
3. The Zoning Commissioner may limit the hours of operation;
4. Notwithstanding the requirements of Subsection 413.2:

E⁹. 72

- a. One wallmounted business sign is permitted with a surface area of no more than twice the length of the wall on which it is mounted but in no case more than 75 square feet.
 - b. The placement of the sign shall be similar to the placement of signs mounted on walls of neighboring businesses except that no such sign may extend above the eaves line of a pitched roof or the parapet of a flat roof building.
 - c. No freestanding business sign shall be permitted.
 - d. The Zoning Commissioner shall have the authority to control letter size, color and other design aspects of all signage for consistency and compatibility with signage on neighboring businesses.
5. No miscellaneous temporary signs as described in Subsection 413.4, shall be permitted to be displayed anywhere on the premises, including windows;
 6. The sale of firearms shall not be permitted, except where authorized by the appropriate federal and State agencies.
 7. The provisions of Section 436.C shall not apply to any pawnshop, licensed by the State as a dealer and legally in operation prior to date of passage of this bill.

PAWN13/PZONE/TXTHSR

PAWN13/PZONE/TXTHSR

05:26:45 PM

E¹⁰. 73

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1994, LEGISLATIVE DAY NO. 7
RESOLUTION NO. 31-94

ATTACHMENT I

MR. MELVIN G. MINTZ, COUNCILMAN

- BY THE COUNTY COUNCIL, APRIL 4, 1994

A. RESOLUTION of the Baltimore County Council to request the Planning Board to consider proposing amendments to the Baltimore County Zoning Regulations in order to allow pawn shops to be located in certain business zones of the County by special exception.

WHEREAS, the Baltimore County Planning Board from time to time considers certain revisions to the Baltimore County Zoning Regulations; and

WHEREAS, the Zoning Regulations currently authorize pawn shops to be located in the BR and BM zones of the County as a matter of right; and

WHEREAS, pawn shops are sometimes inappropriately located near schools, houses of worship and residential neighborhoods; and

WHEREAS, the Baltimore County Council believes that the location of pawn shops in these business zones deserves greater scrutiny than currently is provided for in the Zoning Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the Baltimore County Planning Board be and it is hereby requested to consider proposing amendments to the Baltimore County Zoning Regulations in order to require a special exception for the location of pawn shops in either the BR or BM zones of the County.

R03194/RES94

E. 74

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1995, LEGISLATIVE DAY NO. 12

BILL NO. 112-95

C.C. Erb
#11

MR. KEVIN KAMENETZ, COUNCILMAN

BY THE COUNTY COUNCIL, JUNE 5, 1995

AN ACT concerning

Pawnshops

A BILL ENTITLED
PETITIONER'S
EXHIBIT 9

FOR the purpose of repealing a moratorium on the establishment of pawnshops in Baltimore County; regulating the location of pawnshops; defining terms; permitting pawnshops in certain zones by Special Exception; providing certain restrictions upon existing pawnshops; limiting the total number of pawnshops permitted in the County; providing restrictions and requirements for a petition for Special Exception; and generally relating to pawnshops in Baltimore County.

BY repealing

Bill No. 14-95

BY repealing and re-enacting, with amendments,

Section 101-Definitions, by adding, alphabetically, the definition of
"pawnshop"

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Sections 233.2, 233.4 and 236.4

Baltimore County Zoning Regulations, as amended

BY adding

Section 436

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

WHEREAS, the Baltimore County Council received a final report from the Planning Board, dated February 17, 1995, concerning the subject legislation and held a public hearing thereon on April 17, 1995; now, therefore

1. SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY,
2. MARYLAND, that Bill No. 14-95 be and it is hereby repealed in its entirety.

3. SECTION 2. AND BE IT FURTHER ENACTED, that Section 101 - Definitions, of
4. the Baltimore County Zoning Regulations, be and it is hereby repealed and
5. re-enacted, with amendments, by adding, alphabetically, the definition of
6. "pawnshop", to read as follows:

7. Section 101 - Definitions

8. PAWNSHOP: A BUSINESS WHICH LOANS MONEY ON DEPOSITS OF PERSONAL PROPERTY,
9. OTHER THAN SECURITIES OR PRINTED EVIDENCES OF INDEBTEDNESS, OR DEALS IN THE
10. PURCHASE OR POSSESSION OF PERSONAL PROPERTY ON CONDITION OF SELLING THE SAME BACK
11. TO THE PLEDGOR OR DEPOSITOR. A PAWNSHOP IS LICENSED BY THE STATE AS A DEALER AND
12. DEFINED BY THE STATE AS A PAWNBROKER. FOR THE PURPOSES OF THESE REGULATIONS ONLY,
13. A BUSINESS OPERATED BY A DEALER WHO LOANS MONEY ON DEPOSITS OF SECONDHAND PRECIOUS
14. METALS AND GEMS, ONLY, SHALL NOT BE CONSIDERED A PAWNSHOP PROVIDED THAT THE DEALER
15. DOES NOT LOAN MONEY ON DEPOSITS OF ANY OTHER KIND OF PERSONAL PROPERTY.

16. SECTION 3. AND BE IT FURTHER ENACTED, that Sections 233.2, 233.4 and 236.4
17. of the Baltimore County Zoning Regulations, as amended, be and they are hereby
18. repealed and re-enacted, with amendments, to read as follows:

1. B.M. Zone - Business, Major
2. Section 233 - Use Regulations
3. The following uses only are permitted (see Section 233.3):
4. 233.1 - Uses permitted in B.L. Zone:
5. 233.2
6. {Pawnshop.}
7. 233.4 - Special Exceptions - The following uses when permitted as special
8. exceptions (see Sections 270 and 502):
9. PAWNSHOP
10. B.R. Zone - Business, Roadside
11. Section 236 - Use Regulations
12. 236.4 - Special Exceptions - The following uses when permitted as special
13. exceptions (see Sections 270 and 502):
14. PAWNSHOP

15. SECTION 4. AND BE IT FURTHER ENACTED, that Section 436 be and it is hereby
16. added to the Baltimore County Zoning Regulations, as amended, to read as follows:

17. SECTION 436 - PAWNSHOPS.

18. 436.1 - LEGISLATIVE FINDINGS.

19. (A) THE PRINCIPLE OF COMMUNITY CONSERVATION IS AN EXPRESSED GOAL IN
20. BALTIMORE COUNTY. THE MASTER PLAN 1989-2000 PROPOSES THAT COMMERCIAL ACTIVITIES
21. INCOMPATIBLE WITH LOCAL NEIGHBORHOODS SHOULD BE RESTRICTED IN SUCH AREAS.

22. (B) THE STATE OF MARYLAND REQUIRES THAT BUSINESSES WHICH PURCHASE OR
23. LOAN ON DEPOSIT OF SECONDHAND PRECIOUS METALS AND OTHER VALUABLES OBTAIN A
24. "DEALER'S" LICENSE AND REPORT TRANSACTIONS TO THE LOCAL LAW ENFORCEMENT AGENCY TO
25. HELP PREVENT STOLEN ITEMS FROM BEING TRADED.

26. (C) THE BALTIMORE COUNTY COUNCIL FINDS THAT AN UNDUE CONCENTRATION OR
27. THE INAPPROPRIATE SITING OR DESIGN OF PAWNSHOP BUSINESSES HAS A REASONABLE

1. PROBABILITY OF CAUSING ADVERSE EFFECTS ON NEARBY RESIDENTIAL AND COMMERCIAL AREAS
2. BY CREATING AN IMPRESSION OF COMMUNITY DECLINE AND INSTABILITY.

3. (D) BASED UPON REPORTS SUBMITTED BY THE BALTIMORE COUNTY POLICE
4. DEPARTMENT, THE COUNTY COUNCIL FINDS THAT PAWNSHOPS WHICH DEAL IN A WIDE VARIETY
5. OF VALUABLE GOODS ARE MORE LIKELY TO HAVE A GREATER DELETERIOUS EFFECT ON
6. NEIGHBORHOODS THAN BUSINESSES WHICH DEAL EXCLUSIVELY IN SECONDHAND PRECIOUS METALS
7. AND GEMS, WHERE PAWN TRANSACTIONS ARE MERELY INCIDENTAL TO THE SALE OF NEW OR
8. SECONDHAND JEWELRY.

9. (E) SUCH ADVERSE EFFECTS WOULD DIRECTLY CONFLICT WITH THE COUNTY'S
10. COMMITMENT TO CONSERVING AND REVITALIZING OLDER COMMUNITIES AND WOULD BE
11. INORDINATELY DIFFICULT TO OVERCOME ONCE ILL-SITED PAWNSHOPS HAVE BEEN ESTABLISHED.

12. (F) THE COUNCIL FINDS THAT THE NUMBER OF EXISTING PAWNSHOPS IN
13. BALTIMORE COUNTY IS MORE THAN SUFFICIENT TO MEET THE NEEDS OF THE COMMUNITY AND
14. THAT IT IS CONSISTENT WITH THE INTENT OF THESE REGULATIONS FOR PROMOTING THE
15. PUBLIC HEALTH, SAFETY AND WELFARE TO ESTABLISH A LIMIT ON THE TOTAL NUMBER OF
16. BUSINESSES IN BALTIMORE COUNTY WHICH LOAN ON DEPOSIT OF ITEMS OTHER THAN
17. SECONDHAND PRECIOUS METALS AND GEMS.

18. 436.2 - PROCEDURE

19. (A) THE CHIEF OF POLICE, BASED ON TRANSACTION SHEETS SUBMITTED BY
20. LICENSED DEALERS, SHALL REPORT TO THE DIRECTOR OF PERMITS AND DEVELOPMENT
21. MANAGEMENT THE NAMES AND ADDRESSES OF ALL LICENSED DEALERS IN BALTIMORE COUNTY
22. WHO, IN CALENDAR YEAR 1995, MADE LOANS ON DEPOSIT OF AN ITEM OTHER THAN A
23. SECONDHAND PRECIOUS METAL.

24. (B) UPON RECEIPT OF A DEALER'S TRANSACTION SHEET REPORTING A LOAN ON
25. DEPOSIT OF ANY ITEM OTHER THAN A SECONDHAND PRECIOUS METAL, THE CHIEF OF POLICE
26. SHALL REPORT TO THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT THE NAME AND
27. ADDRESS OF THE BUSINESS, IF THE CHIEF HAS NOT PREVIOUSLY REPORTED THIS INFORMATION
28. TO THE DIRECTOR.

1. (C) FOR ANY LICENSE REPORTED TO THE DIRECTOR, THE CHIEF SHALL PROMPTLY
2. NOTIFY THE DIRECTOR WHEN THE STATE RENEWS OR REVOKES THE LICENSE OR WHEN THE
3. LICENSE EXPIRES.

4. (D) THE DIRECTOR MAY NOT ACCEPT A SPECIAL EXCEPTION PETITION FOR A
5. PAWNSHOP IF THERE ARE TWELVE VALID DEALERS' LICENSES IN THE COUNTY USED TO OPERATE
6. PAWNSHOPS.

7. (E) A DEALER MAY, BY AFFIDAVIT, ANNUALLY DECLARE TO THE DIRECTOR THAT
8. ALL FUTURE PAWN TRANSACTIONS SHALL BE LIMITED SOLELY TO SECONDHAND PRECIOUS
9. METALS, AND THE DIRECTOR SHALL REMOVE THE NAME AND ADDRESS OF THAT PAWNSHOP FROM
10. THE LIST, DURING SUCH TIME AS THE AFFIDAVIT REMAINS IN EFFECT.

11. 436.3 - BUFFER AND SIGN REQUIREMENTS.

12. A PAWNSHOP IS SUBJECT TO THE FOLLOWING REQUIREMENTS:

13. (A) A PAWNSHOP ABUTTING A RESIDENTIAL ZONE LINE (OTHER THAN A STREET
14. RIGHT-OF-WAY), A SCHOOL OR A CHURCH, SHALL PROVIDE A BUFFER IN THE FORM OF A SIX
15. FOOT HIGH BOARD ON BOARD FENCE OR A BRICK WALL IN COMBINATION WITH LANDSCAPING; AND

16. (B) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION 413.2:

17. 1. ONE WALLMOUNTED BUSINESS SIGN IS PERMITTED WITH A SURFACE AREA
18. OF NO MORE THAN TWICE THE LENGTH OF THE WALL ON WHICH IT IS MOUNTED, BUT IN NO
19. CASE MORE THAN 50 SQUARE FEET.

20. 2. THE PLACEMENT OF ANY SIGN SHALL BE SIMILAR TO THE PLACEMENT OF
21. SIGNS MOUNTED ON WALLS OF NEIGHBORING BUSINESSES EXCEPT THAT NO SUCH SIGN MAY
22. EXTEND ABOVE THE EAVES LINE OF A PITCHED ROOF OR THE PARAPET OF A FLAT ROOF
23. BUILDING.

24. 3. A FREESTANDING BUSINESS SIGN IS NOT PERMITTED.

25. 4. MISCELLANEOUS EXTERIOR TEMPORARY SIGNS, AS DESCRIBED IN
26. SUBSECTION 413.4, ARE NOT PERMITTED TO BE DISPLAYED ANYWHERE ON THE PREMISES,
27. INCLUDING WINDOWS.

1. (C) THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING
2. COMMISSIONER MAY REASONABLY REGULATE THE LETTER SIZE, LIGHTING,
3. COLOR AND OTHER DESIGN ASPECTS OF ALL SIGNAGE FOR CONSISTENCY AND COMPATIBILITY
4. WITH SIGNAGE ON NEIGHBORING BUSINESSES.

5. (D) THE USE OF THE WORD "PAWN" OR THE USE OF THE THREE GOLDEN BALL
6. SYMBOL DESIGNATING A PAWNSHOP IS RESTRICTED TO PAWNSHOPS, AS DEFINED IN THESE
7. REGULATIONS, AND MAY NOT BE USED BY ANY OTHER BUSINESS.

8. (E) THE SALE OF FIREARMS IS PROHIBITED, UNLESS AUTHORIZED BY THE
9. APPROPRIATE FEDERAL AND STATE AGENCIES.

10. 436.4 - SPECIAL EXCEPTION PETITION.

11. IN ADDITION TO THE REQUIREMENTS OF SECTION 436.3 AND SUCH OTHER
12. REQUIREMENTS OF THESE REGULATIONS RELATING TO A SPECIAL EXCEPTION PETITION,
13. A SPECIAL EXCEPTION PETITION FOR A PAWNSHOP IS SUBJECT TO THE FOLLOWING
14. REQUIREMENTS:

15. (A) A PAWNSHOP MAY NOT BE LOCATED WITHIN A ONE MILE RADIUS OF ANY
16. OTHER PAWNSHOP, AND NO MORE THAN TWO PAWNSHOPS MAY BE LOCATED IN A COUNCILMANIC
17. DISTRICT.

18. (B) THE ZONING COMMISSIONER MAY REASONABLY LIMIT THE HOURS OF
19. OPERATION OF A PAWNSHOP.

20. 436.5 - ENFORCEMENT.

21. THE DIRECTOR OF PERMITS AND DEVELOPMENT MANAGEMENT SHALL PROVIDE FOR THE
22. ENFORCEMENT OF THIS SECTION IN ACCORDANCE WITH THE PROVISIONS OF TITLE 26, ARTICLE
23. IV OF THE BALTIMORE COUNTY CODE AND ARTICLE 5 OF THESE REGULATIONS.

24. SECTION 5. AND BE IT FURTHER ENACTED, that pawnshops lawfully in
25. existence and operating on the effective date of this Act shall comply with the
26. requirements of Section 436.3 within six eighteen months from the
27. effective date of this Act.

1. SECTION 6. AND BE IT FURTHER ENACTED, that pawnshops lawfully in existence
2. and operating on the effective date of this Act are not subject to the
3. requirements of Sections 436.4.

4. SECTION 7. AND BE IT FURTHER ENACTED, that this Act is hereby declared to
5. be an emergency measure affecting the public health, safety and welfare, and
6. having been passed by the affirmative vote of five members of the County Council,
7. the same shall take effect from the date of its enactment.

B11295/BILLS95



COUNTY COUNCIL OF BALTIMORE COUNTY

COURT HOUSE, TOWSON, MARYLAND 21204

**KEVIN KAMENETZ
COUNCILMAN, SECOND DISTRICT**

**COUNCIL OFFICE: 887-3198
DISTRICT OFFICE: 887-3385**

January 2, 1996

Mr. Howard I. Dubick, President
Gold Marina Jewelry and Pawn
138 Eastern Boulevard
Essex, Maryland 21221

RECEIVED
JAN 10 1996
10

Dear Mr. Dubick:

Thank you for your December 28, 1995 correspondence relating to Mr. Scherr's desire to move his existing pawn shop.

As you may recall, one of the major considerations raised by existing pawn shop owners regarding the new law was an ability for existing owners to have the flexibility to move where economic circumstances so dictated. As a result of these considerations, the bill was amended to exempt existing pawn shop owners from the mile radius. Mr. Scherr's move is otherwise subject to existing zoning regulations, including a requirement that he have a Special Exception Hearing.

It is my practice not to involve myself in zoning development issues. To do otherwise would be an attempt to influence the outcome of proceedings by individuals who are subject to the Appropriation Budget Process.

The most effective manner to have your concerns recognized would be to make them known at the hearing.

Very truly yours,

Kevin Kamenetz
Councilman, Second District

KK:pln
DUBICK.LTR

RECEIVED
DEC 29 1995

December 28, 1995

ATTN: KEVIN KAMENETZ

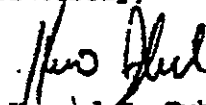
Dear Mr. Kamenetz,

I am not sure if you are aware of Micky Sher's desire to move his existing pawn shop from Rte. 40 to Essex. Moving his pawn shop in an area that has two pawnshops seems to be an overkill, as you stated in your findings about how pawnshops have "an adverse effect on nearby residential and commercial areas by creating an impression of community decline and instability".

The reason I am writing to you is because you enacted the bill that keeps control of the pawnshops and by Mr. Sher moving his store to the Essex community, violates the premise of the Bill. He clearly violates the bill because the proposed shop is within 1 mile of another pawn shop called Pawn It.. If this one issue is allowed to be by-passed then the rest of the Bill is at that POINT CONSIDERED TO BE inconsequential also. Mr. Sher would be setting a precedence as to not following the guidelines of the bill.

I feel you can help uphold the bill by being more aware of the consequences of Mr. Sher's move, and I am sure if you would tell Zoning your feelings, they would listen and understand.

Sincerely,



Howard I. Dubick
President, Gold Marina
Jewelry and Pawn

410-687-5045

P.S.

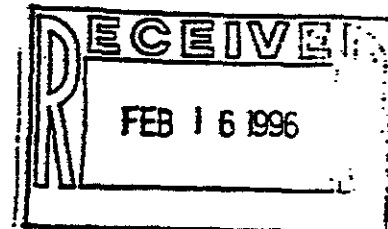
The hearing is scheduled for January 2, 1996 at 11:00 a.m..

2/16 LCT due 3/5



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE



TO: Virginia Barnhart, County Attorney
Office of Law

FROM: Kevin Kamenetz
Chairman, County Council

SUBJECT: Petition for Special Exception - Southside Broker's, Inc.
Case #96-226-X

DATE: February 15, 1996

PETITIONER'S
LAWYER

11

I read with interest Zoning Commissioner Schmidt's Findings of Fact and Conclusions of Law in the above-captioned matter.

Page 5 of the Opinion states:

Such an interpretation as argued by the Petitioner would render the Bill meaningless, at least to those individuals who are licensed pawnbrokers in Baltimore County prior to the effective date of the Bill. They could move from location to location freely. I do not believe the [Council] intended such a result.

By way of legislative history, when I met with the existing pawnshop owners prior to introduction of the Bill, the pawnshop owners complained that imposing a one mile radius restriction on their existing businesses would in all practicable terms allow their landlords to arbitrarily increase their rent. Finding that to be a reasonable position, I exempted existing pawnshops from that radius restriction. As they would otherwise be subject to a special exceptions petition, I found that exemption to be reasonable.

Interestingly, I received correspondence from a competitor who desired that I become involved before the Zoning Commissioner. In declining, I also noted my belief that the one mile radius restriction was not applicable. I enclose a copy of that correspondence.

I believe that an injustice has occurred here, and I seek your input regarding potential responses.

KK:pln
Enclosure
BARNHART.002

B
C

NATURE SAVER™ FAX MEMO 01070		3/1	2
To: Mickey Skerr	From: Lou DePazzo		
Co./Dept.	Co.		
Phone #	Phone # 887-7174		
Fax # 727-5463	Fax #		

400 Washington Avenue
Towson, Maryland 21204
(410) 887-4430
Fax: (410) 296-0931

February 20, 1996

The Honorable Louis L. DePazzo
Councilman, 7th Councilmanic District
Courthouse
Towson, Maryland 21204

PETITIONER'S
EXHIBIT 12

Dear Councilman DePazzo.

In a recent communication you have requested the opinion of this office with respect to the meaning and intent of County Council Bill No. 112-95 (the "Bill"), amending the Baltimore County Zoning Regulations (BCZR) and dealing with pawnshops. The Bill defines a pawnshop, requires that a Special Exception to the zoning regulations be obtained in order to operate one and establishes prerequisites for the granting of a Special Exception. We understand your specific inquiry to be directed to the question of whether Section 6 of the Bill, which excludes existing pawnshops from the requirements of (new) Section 436.4 of the BCZR, would operate in such fashion as to exclude an existing pawnshop seeking a Special Exception to move to a new location from the prohibition against locating within a one mile radius of another pawnshop.

In that regard we have been informed that Zoning Commissioner Lawrence E. Schmidt, in an Order dated January 22, 1996, has ruled to the contrary in finding that an existing pawnshop seeking a Special Exception to permit relocation is subject to the one mile radius limitation.

With all deference, in our view the Zoning Commissioner was in error when he so ruled. Prior to the adoption of the Bill a pawnshop was a use permitted as a matter of right in BM and BR zones. The Bill revoked that right and instead required that henceforth the pawnshops would only be permitted in those two zones by Special Exception. In addition to the normal requirement for the granting of a Special Exception, as contained in Section 502.1 of the BCZR, the Bill imposed certain additional requirements in its enactment of new Section 436.4 of the BCZR. The Section reads as follows:

"436.4 - Special Exception Petition. In addition to the requirements of Section 436.3 and such other requirements of these regulations relating to a Special Exception Petition, a Special Exception Petition for a pawnshop is subject to the following requirements:

(A) A pawnshop may not be located within a one mile radius of any other pawnshop, and no more than two pawnshops may be located in a councilmanic district.

(B) The Zoning Commissioner may reasonably limit the hours of operation of a pawn shop."

Standing by itself the Section would clearly prohibit the granting of a Special Exception for the use of property for the operation of a pawnshop business under any circumstances where the proposed use would be in violation of Section 436.4(A). Included within the provisions of the Bill however was Section 6 which reads as follows:

"Section 6 And be it further enacted, that pawnshops lawfully in existence and operating on the effective date of this Act are not subject to the requirements of Section 436.4."

Thus by the express language of Section 6 the County Council exempted pawnshops presently in existence from the requirements of Section 436.4, as enacted by the Bill. As to an existing pawnshop business, however, the provisions of the Bill requiring the granting of a Special Exception would only be applicable in the event that the business desired to relocate as no Special Exception would be required if the business were to remain at its present location. Accordingly, had the Council intended to subject an existing pawnshop business, seeking to relocate and to obtain a Special Exception for that purpose, to the requirements of Section 436.4 of the BCZR, then the language of Section 6 of the Bill would be pointless and without purpose. Such a construction must be avoided. It is an elemental proposition that the enactment should be construed so as to give effect, if possible, to every word, clause and sentence therein and so that no part would be inoperative, superfluous, void or insignificant. See Fisher, et al vs Bethesda Discount Corporation, 221 Md. 271, 157 A.2d 265 (1960) and Sutherland Statutory Construction, 5th Edition, Section 46.06.

In sum, it is our opinion that the Bill as written excludes existing pawnshop businesses seeking a Special Exception from the BCZR to relocate from the prohibition against locating within a one mile radius of another pawnshop business.

We trust that the foregoing is responsive to your inquiry.

Very truly yours,


Virginia W. Barnhart
County Attorney


Lee S. Thomson
Assistant County Attorney

VWB/LST/ile

ALLEY N 35° 43' 33" E 45' 817 FT. FROM BEGINNING
4' HIGH FENCE

POINT OF BEGINNING
817 FT. FROM BACK RIVER NECK RD. →
15 FT. WIDE CONC. PAVED ALLEY TO REAR OF R.
ROW HOMES APPROX. 100 FT. BEHIND REAR FT.

NOTES:

COUNCILMANIC DISTRICT : 7

ELECTION DISTRICT : 11

ZONING : BM

USE : RETAIL / SHOPPING CENTER

LAND AREA : SHOPPING CENTER : 521,090 S.F.

DEMISE / SOUTHSIDE : 11,350 S.F.

BUILDING AREA : SHOPPING CENTER : 129,075 S.F.

DEMISE / SOUTHSIDE : 3,600 S.F.

PARKING REQ'D : SHOPPING CENTER : 684

(5 PER 1,000 S.F.) DEMISE / SOUTHSIDE : 18

PARKING PROVIDED : SHOPPING CENTER : 798

DEMISE / SOUTHSIDE : 23

PARKING SPACES ARE SHARED WITH OTHER TENANTS

SPACES ARE STRIPED 9.0' X 18.0'

SHOPPING CENTER PARKING LOT IS ALL PAVED MACADAM

ALL STRUCTURES / USES WITHIN 200 FT OF DEMISE SHOWN

HANDICAP PARKING IS SHARED IN COMMON WITH OTHER TENANTS

THERE ARE NO SEPARATE FREE STANDING SIGNS EXCEPT THOSE

ON THE FRONT OF THE BUILDING, CONSISTENT WITH SHOPPING

CENTER AND BALTIMORE COUNTY RULES AND REGULATIONS.

SIGN PERMITS WILL BE OBTAINED AS REQUIRED.

Country Ridge Shopping Center

(ALL USES ARE AS EXISTING)

APPLICATION FOR SPECIAL EXCEPTION / Special Hearing
1502 1/2 Back River Neck Road

SCALE: 1" = 30' APPROVED BY: DRAWN BY: RSD

DATE: 1/28/98 REVISED

Southside Brokers Inc.
1101 LIGHT ST. BALT. 21230 (410) 528-8229

Richard S. Davis, P.E. (410) 247-2400 DRAWING NUMBER
581-01

AMES

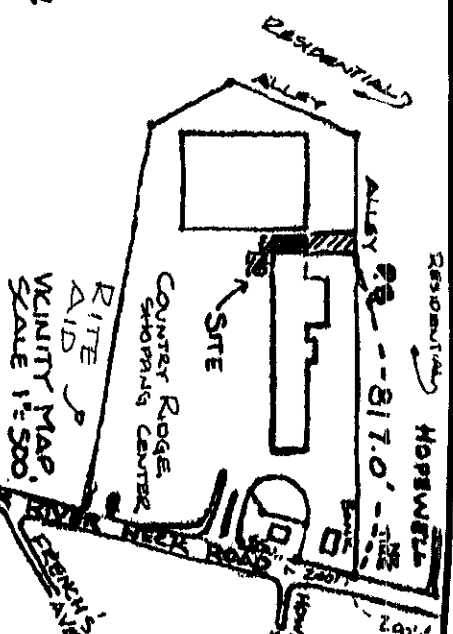
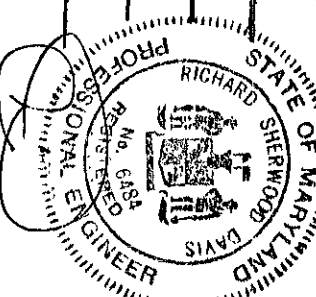
SOUTHSIDE
BROKERS
INC.

BEAUTY SHOP

25'
OLD
LOC.
SOUTHSIDE

VALU-FOOD

CHINESE RESTAURANT
LABARTE SCHOOL
VACANT STORE



11 X 17
#482-811-00

MORE COUNTY ANNING AND ZONING ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992

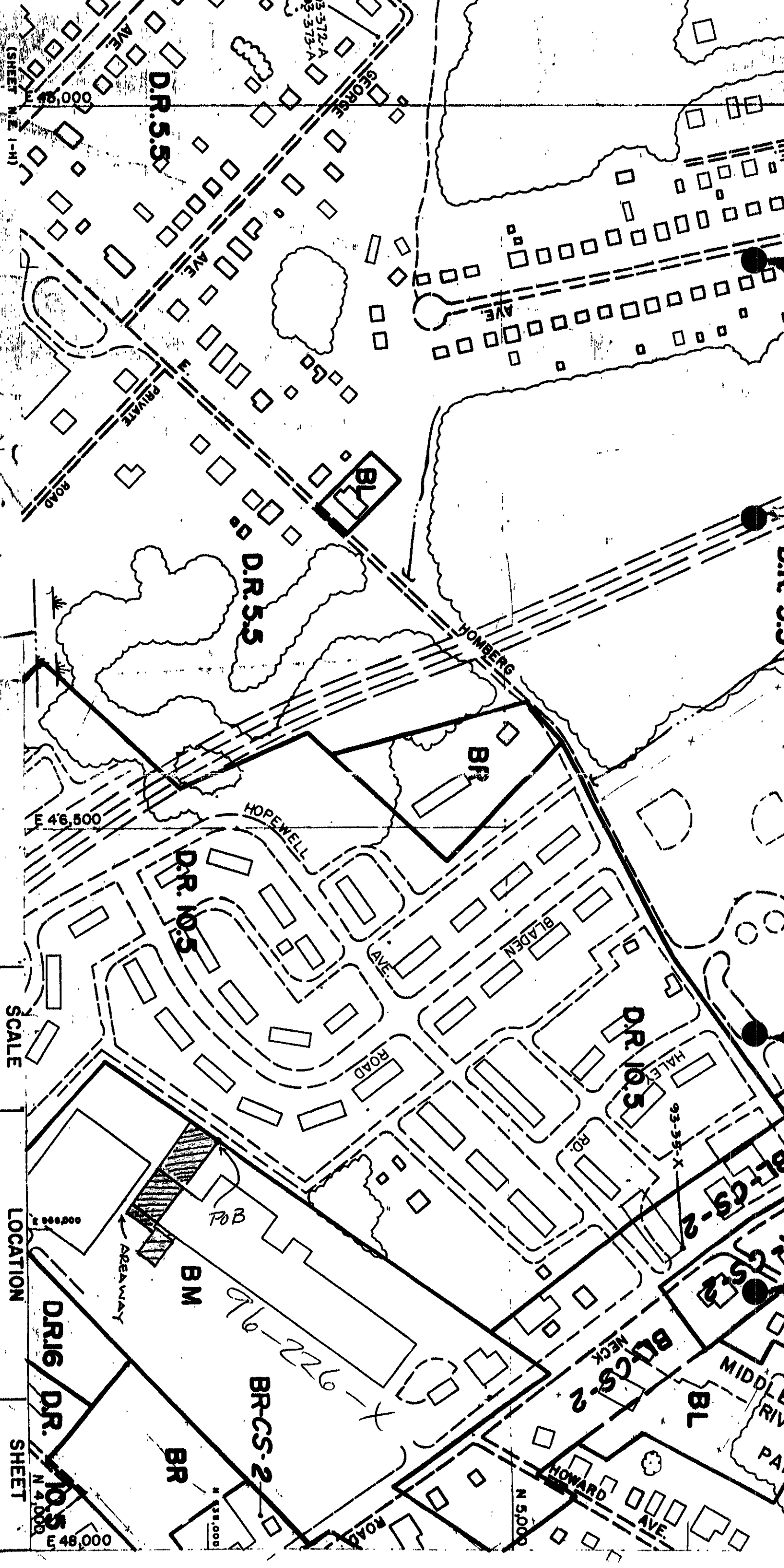
Map Nos. 103-92, 104-92, 105-92, 110-92, 117-92, 108-92, 109-92

William A. Howard IV
Baltimore County Council

SCALE	1" = 200' ±
DATE OF PHOTOGRAPHY	JANUARY 1986

LOCATION
STEMMERS RUN
BACK RIVER NECK

SHEET
N.E.
2-H
10.5
N 4,000
E 48,000



99.48-SPHX



Petitioner's
Ex. # 2
photograph
99-48-5PHX



